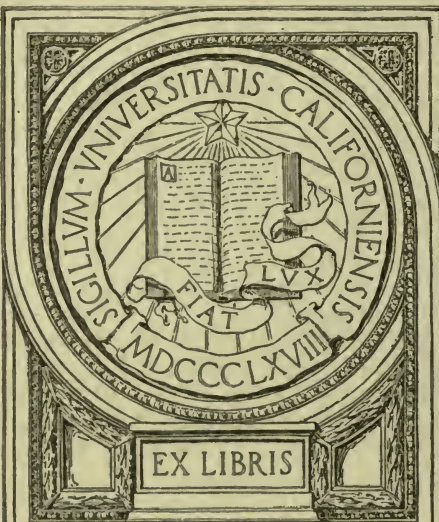


UC-NRLF



QB 635 102

GIFT OF



EX LIBRIS

DIGEST
of
**Income and War-Excess
Profits Tax Law**



The National City Company
National City Bank Building
New York



Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

DIGEST
OF
REVENUE ACT OF 1918
FOR
INCOME AND EXCESS
PROFITS TAXES

*With tables for Calculation of Tax and
Chart of War Excess Profits Tax Zones*

Act { Passed House Reps. Feb. 8, 1919
Passed Senate Feb. 13, 1919



gtr 7

THE NATIONAL CITY COMPANY
NATIONAL CITY BANK BUILDING

New York, 1919

H-2379
N2

COPYRIGHT, 1919, BY
THE NATIONAL CITY COMPANY

Gift

NO. 1000
ALBANY, N. Y.

Foreword

THE information contained in this booklet is believed to be accurate; but it has been compiled in advance of any official interpretation of the Revenue Act of 1918 by the Treasury Department.

In view of the desire and necessity for immediate information concerning these taxes, however, this booklet is published in the hope that taxpayers may be able to gain therefrom a fair general idea of the provisions of the Act relating to taxes on income.

What is the Revenue Act of 1918?

What is my liability under this statute?

How, when, and where shall I comply with the requirements of the statute?

What are its requirements in my case particularly?

This pamphlet gives the answer.

In time, the Treasury Department will answer the above questions. The statute fixes the time in which returns of income for the calendar year 1918 must be filed as, "on or before March 15, 1919."*

The Secretary of the Treasury has stated that every person required to make returns of income for the purpose of 1918 tax, must do so within the time fixed by the statute; that if he is not entirely ready to do this or has any doubts as to the details of the statute's requirements, he must nevertheless make some statement or return and correct it later, if it should be incorrect.

If your guess causes you to pay less than you should, even though the mistake is honestly made, the statute penalizes you. If you pay too much, you get your money back some time (if you make a claim for refund within five years), or you may have it credited against some other tax which you may owe some other time.

It is the desire of the National City Company to assist the Government and taxpayers by making it possible that those who seek the Company's assistance, may—now—correctly state the facts of their income and tax thereon, whether the return forms which are now in preparation by the Government are in hand or not, and thus avoid the time, expense and annoyance involved in corrections.

This pamphlet tells you how. If you follow it, the making of your return should be simply a matter of transferring figures to the Government blank. If you are in tax trouble—don't worry—tell it to the TAX DEPARTMENT of the National City Company.

THE NATIONAL CITY COMPANY.

*Note.—See page 4.

Note:—

As we are going to press we are advised of the following ruling by the Commissioner:

"Re: EXTENSION OF TIME FOR FILING RETURNS.

"Treasury Department,
"Office of Commissioner of Internal Revenue,
"Washington, D. C.

"TO COLLECTORS OF INTERNAL REVENUE AND OTHERS CONCERNED:

"Although no general extension of time will be authorized for filing Federal Income Tax returns due March 15, the Commissioner of Internal Revenue has approved a novel feature of tax collection which will serve for all practical purposes as a possible extension of forty-five days for the filing of corporation income and excess profits tax returns in cases where corporations are unable to complete and file their returns of March 15.

"If a corporation finds that, for good and sufficient reason, it is impossible to complete its return by March 15, it may make a return of the estimated tax due and make payment thereof not later than March 15. If meritorious reason is shown why the corporation is unable to complete its return by the specified date, the collector will accept the payment of the estimated tax and agree to accept the revised and completed tax return within a period of not more than 45 days.

"Under the plan adopted for corporation payments and returns, the Government will be able to collect approximately the amount of tax due on or before March 15, thus meeting its urgent needs, and corporations actually requiring further time for the preparation of their complete returns will be granted ample time in which to do so.

"One of the advantages of this plan is that it relieves the taxpayer of one-half of one per cent interest per month that would be attached to the payment of the taxes under an extension granted at the request of the taxpayer. The taxpayer will, of course, not be relieved of interest on such amount as his payment may fall short of the tax found later to be due on the basis of his final return.

"Should the payment on March 15 of the estimated tax due be greater than the tax eventually found to be due on examination of the completed return, the excess payment will automatically be credited to the next installment which will be due on June 15.

"Provision for systematically handling this new feature will be made in the construction of the new return blanks for corporations. The new form will be a combined income and excess profits blank, embodied in which is a detachable letter of remittance. Any corporation which finds that, for sufficient reasons, it cannot complete its return by March 15, may detach and fill out the letter of remittance, and forward same to the collector on or before March 15, together with a check, money-order or draft for the tax due on that date. If the exact tax is not known, the estimated tax due will be paid in this manner. A statement in writing of the reasons why it is impossible for the corporation to complete the return by the specified date must accompany every such remittance.

"Individual taxpayers will be given similar privileges in cases in which it is made clear by the taxpayer that the time available is not sufficient to enable him to complete his return by March 15. No reason exists, according to the Internal Revenue officials for delaying the filing of the returns of individual incomes, except in unusually difficult cases.

"Forms for returns of individual incomes up to \$5,000 will be distributed by collectors within a few days. Forms for larger incomes will be available about February 24. Corporation blanks will be distributed by March 1. Regulations governing the administration of the new Income Tax will also be available before March 1.

**"DANIEL C. ROPER,
"Commissioner of Internal Revenue."**

CONTENTS

I.

DEFINITIONS Pages 9 to 16

INCOME TAX Paragraph

Exempt income	1- 21
Income of non-resident aliens	22- 27
Income, definition	28- 31
Gross income	32- 38
Net income	39- 41
Returns of income	42- 94
Titles of taxes	95-128
Deductions	129-162
Content of individual return	163-166
Partnership return	167
Fiduciary return and tax	168-171
Corporation	
Income and deductions	172-198
Credits—	
Against income and tax	199-206
Returns, single and consolidated	207-211
Payment, withholding or collection of tax at the source	212-232
Payment of tax	233-234
Penalties	235-241
Information at source	242-245
Foreign items	246-247
Possessions of the United States	248-250
Exempt corporations	251-264

II.

WAR-EXCESS PROFITS TAX

Definitions and rates	265-279
Credits—	
Excess profits, war profits	280-290
Tax on combination of income	291-292
Average pre-war net income	293-294

	Paragraph
Invested capital, computation of	295-298
Adjustment of invested capital	299-302
Form of balance sheet	302
Tax on basis of representative corporations	303-309
Reorganizations	310-313
Tax for fiscal year with different rates	314-318
Payment of tax	319
Maximum tax on profits from sale of mines, oil or gas wells	320

III.

CHARTS AND TABLES

	Page
1. Table I. Individual Normal and Surtax and Percentages, 1918	75
2. Table II. Individual Normal and Surtax and Percentages, 1919	78
3. Table III. Surtaxes 1913-15, 1916, 1917 and illustration of calculation of tax on allocated income	80
4. Chart of Tax Zones	83
5. Table IV. Decimal Table for Calculation of War-Excess Profits Tax	84
6. Table V. Maximum Tax on Various Incomes	88

INDEX TO DEFINITIONS

(References are to pages)

	PAGE		PAGE
Act of 1916.....	9	Net loss	12
Act of 1917.....	9	Taxpayer	13
Business	9	"Paid or incurred" and "Paid or ac-	
Collector	9	crued"	14
Commissioner	9	Person	14
Corporation	9	Personal service corporation.....	14
Dividend	9	Possessions of U. S.....	14
Domestic	10	Present war	14
Fiduciary	10	Profit	14
Fiscal year	10	Reserve fund required by law.....	14
Fiscal year with different rates of tax	10	Secretary	14
Gain or loss	10	Stock dividend	14
Gain or loss on exchange of property.	11	Taxable year	15
Government contract, means.....	11	Taxable year 1918.....	15
Inventory	11	Taxpayer	15
Life insurance company.....	12	Trade	15
Loss	12	United States	16
Losses	12	Withholding agent.....	16
Military or naval forces of the U. S.	12		

INDEX TO INCOME TAX

(Each paragraph has been numbered and references are to these numbers)

	Par.		Par.
Adjustment of tax when accrual		Interest	175
basis used, ...	166	Losses	182
Citizens of possessions of U. S.,		Non-resident aliens, returns....	157
48, 248-250		Property for prosecution of war.	186
Corporation income:		Special losses on inventories,	
Computation of.....	110, 172-173	155-156, 192-197	
Credits against.....	108-111, 200-202, 135-153	Taxes	176-181
Excess or War Profits tax on.....	123-128	Withholding	221-228
Exemptions of.....	251-264	Items not allowable.....	158-162, 199
Information at source.....	242, 244-245	Dividends:	
Items not included in.....	6-20	Deductions allowed.....	184
Rates of tax on.....	112-113	Of personal service corporations..	76
Tax on.....	107	Payment at source.....	242
Withholding	217, 219-228	Tax on.....	38
Credits allowed:		Estates and Trusts:	
Against gross income:		Fiduciary responsibilities.....	169
Contributions or gifts.....	153	Periodical distributions.....	170
Debts	149	When taxed as for individuals....	168
Depletion, depreciation of mines,		Exemptions:	
etc.	152	For corporate income.....	251-264
Exhaustion, wear, etc.....	150	For domestic income	111
Expenses	135-137	Specific	99-103
Interest	138	Excess and War Profits Tax on in-	
Losses	145-148	come.....	123
Partnership	73-76	Foreign items	246-250
Property for prosecution of war.	151	Gross income:	
Taxes	140-144	Items included	32-37
Against income for normal indi-		Of corporations	172-173
vidual tax.....	164	Income:	
Against net income:		Classes subject to tax.....	23-41
Amount of Excess or War Profits		Definitions of	3, 28-31
tax for same taxable year,		Items not included	6-21
109-110, 201		Information at source, statement of:	
Interest	108; 200	Brokers	243
Of domestic corporation.....	111, 202	Other cases	244-245
Against tax.....	165, 203-206	Payment of dividends	242
Explanation of	130-133	Net income:	
Deductions:		Credits allowed against 108-111, 200-202	
Definition	129-133	Of corporations	172
Items allowable:		Tax on	39-41, 46-47
Amounts from insurance.....	188-191	Nonresident aliens:	
Debts	183	Computation of income	22
Depletion and depreciation.....	187	Deductions allowed	139, 157
Dividends	184	Payment at source	222
Exhaustion, wear and tear.....	185	Returns of	50
Expenses	174	Subject to normal tax	220-222
Foreign corporation.....	198	Withholdings of.....	222

	Paragraph
Invested capital, computation of	295-298
Adjustment of invested capital	299-302
Form of balance sheet	302
Tax on basis of representative corporations	303-309
Reorganizations	310-313
Tax for fiscal year with different rates	314-318
Payment of tax	319
Maximum tax on profits from sale of mines, oil or gas wells	320

III.

CHARTS AND TABLES

	Page
1. Table I. Individual Normal and Surtax and Percentages, 1918	75
2. Table II. Individual Normal and Surtax and Percentages, 1919	78
3. Table III. Surtaxes 1913-15, 1916, 1917 and illustration of calculation of tax on allocated income	80
4. Chart of Tax Zones	83
5. Table IV. Decimal Table for Calculation of War-Excess Profits Tax	84
6. Table V. Maximum Tax on Various Incomes	88

INDEX TO DEFINITIONS

(References are to pages)

	PAGE		PAGE
Act of 1916.....	9	Net loss	12
Act of 1917.....	9	Taxpayer	13
Business	9	"Paid or incurred" and "Paid or ac-	14
Collector	9	crued"	14
Commissioner	9	Person	14
Corporation	9	Personal service corporation.....	14
Dividend	9	Possessions of U. S.	14
Domestic	10	Present war	14
Fiduciary	10	Profit	14
Fiscal year	10	Reserve fund required by law.....	14
Fiscal year with different rates of tax.	10	Secretary	14
Gain or loss	10	Stock dividend	14
Gain or loss on exchange of property.	11	Taxable year	15
Government contract, means.....	11	Taxable year 1918.....	15
Inventory	11	Taxpayer	15
Life insurance company.....	12	Trade	15
Loss	12	United States	16
Losses	12	Withholding agent.....	16
Military or naval forces of the U. S.	12		

INDEX TO INCOME TAX

(Each paragraph has been numbered and references are to these numbers)

	Par.		Par.
Adjustment of tax when accrual basis used.....	166	Interest	175
Citizens of possessions of U. S.,	48, 248-250	Losses	182
Corporation income:		Non-resident aliens, returns....	157
Computation of.....	110, 172-173	Property for prosecution of war; 186	
Credits against. 108-111, 200-202, 135-153		Special losses on inventories,	155-156, 192-197
Excess or War Profits tax on.....	123-128	Taxes	176-181
Exemptions of.....	251-264	Withholding	221-228
Information at source.....	242, 244-245	Items not allowable.....	158-162, 199
Items not included in.....	6-20	Dividends:	
Rates of tax on.....	112-113	Deductions allowed.....	184
Tax on.....	107	Of personal service corporations..	76
Withholding	217, 219-228	Payment at source.....	242
Credits allowed:		Tax on.....	38
Against gross income:		Estates and Trusts:	
Contributions or gifts.....	153	Fiduciary responsibilities.....	169
Debts	149	Periodical distributions.....	170
Depletion, depreciation of mines, etc.	152	When taxed as for individuals....	168
Exhaustion, wear, etc.....	150	Exemptions:	
Expenses	135-137	For corporate income.....	251-264
Interest	138	For domestic income	111
Losses	145-148	Specific	99-103
Partnership	73-76	Excess and War Profits Tax on in-	123
Property for prosecution of war.	151	come.....	
Taxes	140-144	Foreign items	246-250
Against income for normal individual tax.....	164	Gross income:	
Against net income:		Items included	32-37
Amount of Excess or War Profits tax for same taxable year,	109-110, 201	Of corporations	172-173
Interest	108, 200	Income:	
Of domestic corporation.....	111, 202	Classes subject to tax.....	23-41
Against tax.....	165, 203-206	Definitions of	3, 28-31
Explanation of	130-133	Items not included	6-21
Deductions:		Information at source, statement of:	
Definition	129-133	Brokers	243
Items allowable:		Other cases	244-245
Amounts from insurance.....	188-191	Payment of dividends	242
Debts	183	Net income:	
Depletion and depreciation.....	187	Credits allowed against 108-111, 200-202	
Dividends	184	Of corporations	172
Exhaustion, wear and tear.....	185	Tax on	39-41, 46-47
Expenses	174	Non-resident aliens:	
Foreign corporation.....	198	Computation of income	22
		Deductions allowed	139, 157
		Payment at source	222
		Returns of	50
		Subject to normal tax	220-222
		Withholdings of.....	222

distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits accumulated between the close of the preceding taxable year and the date of distribution, to the extent of such earnings or profits, and if the books of the corporation do not show the amount of such earnings or profits the earnings or profits for the accounting period within which the distribution was made shall be deemed to have been accumulated ratably during such period.

Dividend: From what fund payable: Earnings or profits only. Distributions in liquidation of corporations are not dividends, for the purpose of the Income Tax. They are to be treated as payments in exchange for stock or shares, and any gain or profit realized thereby shall be taxed to the recipient or distributee thereof, as other gains or profits are taxed.

Dividend: Personal Service Corporation. Any distribution made by such a corporation to its shareholders or members out of its earnings or profits accumulated between February 28, 1913, and January 1, 1918, whether in cash or in other property or in stock of the corporation. It (except in the case of stock dividend received in 1918)† shall be taxed to the recipient thereof at the rate or rates applicable to such income for such recipient for 1918—when received in 1918—and when received in subsequent years it shall be taxed to such recipient at the rate or rates which shall prevail as for the year of receipt.

Domestic: When applied to a corporation or partnership means created or organized in the United States.

Fiduciary: A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person, trust or society. For the purposes of the Income Tax "fiduciary" does not apply to corporations.

Fiscal Year: An accounting period of twelve months ending on the last day of any month other than December.

Fiscal Years with Different Rates of Tax: Where a fiscal year begins in a calendar year having rates of tax differing from rates which obtain for the calendar year in which said fiscal year ends, the rates of the first calendar year shall apply to that proportion of the net income of the fiscal year, which the fraction of such first calendar year (within the fiscal year) is of the whole of such calendar year, and the rates for the calendar year in which the fiscal year ends shall apply to the remainder of such income.

Gain or Loss: Basis for determining. A comparison between values—fair market price or value as of March 1, 1913 (where the property, whose value is presently in question, was acquired prior to that date) and the value of such property at the time of determination of value for present purposes; and when such property was acquired subsequent to March 1, 1913, then the basis of comparison with present value shall be cost of the property at the time

†See "Stock Dividend."

it was acquired. Gain or loss is determinable only on a sale or such other disposition of property as will effect a transfer of title to the property. An excess of sales price over purchase price shows a gain in the amount of the excess; the reverse shows and measures the amount of a loss.

Gain or Loss on Exchange of Property:

When property is exchanged for other property, the property received in exchange shall, for the purpose of determining gain or loss, be treated as the equivalent of cash to the amount of its fair market value, if any.

When in connection with a reorganization, merger or consolidation of a corporation a person receives in place of stock or securities owned by him, new stock or securities of **no greater aggregate par or face value**, no gain or loss shall be deemed to occur from the exchange. In such case the new stock or securities received shall be treated as taking the place of the stock, securities or property exchanged.

When in the case of any such reorganization, merger or consolidation the aggregate par or face value of the new stock or securities received is in excess of the aggregate par or face value of the stock or securities exchanged, a **like amount** in par or face value of the new stock or securities received shall be treated as taking the place of the stock or securities exchanged. The amount of the excess (in par or face value) shall be treated as a gain to the extent that the fair market value of the new stock or securities is greater than the cost (or if acquired prior to March 1, 1913, the fair market value as of that date) of the stock or securities exchanged.

Government Contract, Means:

- (a) A contract made with the United States, or with any Department, Bureau, Officer, Commission, Board, or Agency, under the United States and acting in its behalf, or with any agency controlled by any of the above if the contract is for the benefit of the United States, or
- (b) A subcontract made with a contractor performing such a contract if the products or services to be furnished under the subcontract are for the benefit of the United States.

The term "Government Contract or Contracts made between April 6, 1917, and November 11, 1918, both dates inclusive," when applied to a contract of the kind referred to in clause (a), includes all such contracts which, although entered into during such period, were originally not enforceable, but which have been or may become enforceable by reason of subsequent validation in pursuance of law.

Inventory: A list of articles (material thing or class of things) with a valuation in detail thereof. "Inventory" as used in connection with the Income Tax Law relates to some showing of present value in comparison with some previous value. Inventories may be used when, and in such manner as, the Commissioner of Internal Reve-

nue shall, by regulation, prescribe as conforming as nearly as may be to the best accounting practice in the trade or business represented and as most clearly reflecting the income.

Life Insurance Company: Means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health and accident insurance continuing for the life of the insured and not subject to cancellation by the Company), whose reserve funds held for the fulfillment of such contracts comprise more than fifty percentum of its total reserve fund.

Loss: The difference between selling price and cost, where the selling price is less than cost. The losses comprehended by the statute are losses of capital, which in the meaning of the statute are properly deducted from receipts of income in estimating net income. Loss by depreciation, depletion or obsolescence is otherwise provided for.

Losses: Provided to be taken as deductions in a return of income by Section 214 are those which are sustained during the taxable year and which are not compensated for by insurance or otherwise, to wit:

(Paragraph 4) If incurred in trade or business.

(Paragraph 5) If incurred in any transaction entered into for profit, though not connected with the trade or business.

(Paragraph 6) Of property not connected with the trade or business, if arising from fires, storms, shipwreck or other casualties, or from theft.

In the case of non-resident aliens, the transaction must be in the United States or the property be located in the United States.

Military or Naval Forces of the United States: Includes the Marine Corps, the Coast Guard, the Army Nurse Corps, female, and the Navy Nurse Corps, female, and such other units as are otherwise included within the term defined.

Net Loss: The excess of deductions allowed by law (not including dividends received, allowed as a deduction in case of corporations) over the sum of gross income as reported in a return of income plus interest received free from taxation both for Income Tax and War Excess Profits Tax.

The interest which is free from both these taxes is:

- (a) Interest on United States bonds other than Liberty Bonds;
- (b) Interest from Liberty Bonds assignable to that proportion of capital invested in Liberty Bonds the income from which is entirely exempted from surtax to individuals and excess profits tax to corporations;
- (c) Interest on State, County and Municipal Bonds;
- (d) Interest on Federal Land Bank or Joint Stock Land Bank Bonds;
- (e) Interest on United States territorial bonds and bonds issued by the possessions of the United States which, by

law, is made exempt from taxation by the United States Government.

- (f) In the case of corporations, dividends received by them on stock of other corporations whose income is subject to United States tax.

Net Loss refers to two classes of loss only,

- (a) To net losses resulting from the operation of any business regularly carried on by the taxpayer;
- (b) To net losses resulting from bona fide sale by the taxpayer of
- Plant
 - Buildings
 - Machinery
 - Equipment
 - Or other facilities

constructed, installed or acquired by the taxpayer on or after April 6, 1917, for the production of articles contributing to the prosecution of the war with Germany.

Net Loss is deductible in a return of income as follows:

Within five years from the date the return of income was due—where, in the case of a taxable year beginning after October 31, 1918, and ending prior to January 1, 1920, it appears from evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount of such net loss shall—under regulations prescribed by the Commissioner—be deducted from the net income of the taxpayer for the **preceding** taxable year, and the Income Tax and Excess Profits Tax for such preceding taxable year shall be redetermined accordingly. Any amount found to be due to the taxpayer on the basis of such redetermination shall be credited against any Income, War Profits or Excess Profits Tax, or any installment thereof, then due from the taxpayer on any other return, and any balance of such excess shall be immediately refunded to the taxpayer; e. g., a net loss ascertained on the return of income for 1919, shall be deducted from the net income of 1918, and the total tax on income of 1918 shall be redetermined accordingly and the amount of the Excess Tax paid on 1918 income, as shown by this redetermination, shall be credited against the total tax, or any installment thereof, then due on 1919 income and any balance of such excess shall be immediately refunded to the taxpayer—and so on for succeeding years.

Taxpayer, within the meaning of the provision for “net loss” includes individuals in business, beneficiaries of trusts or estates to which net losses have accrued, members of partnerships to which net losses have accrued, and corporations or associations to which net losses have accrued.

"Paid or Incurred"

and

"Paid or Accrued": These terms are to be construed according to the method of accounting upon the basis of which the net income is computed under Section 212; i.e., if items not actually paid or received are nevertheless treated as accomplished facts and the books of taxpayers regularly so kept and this method will clearly reflect the taxable net income, it may be used for income and excess profits tax; otherwise the basis of actual receipt and payment, or such method as the Commissioner may require, must be used. Subject only to the requirement that the method used must clearly reflect the net taxable income (a result which would be practically and relatively the same by whatever method calculated, if employed over a number of years), taxpayer may select his own method of bookkeeping.

Hence the term paid, for the purpose of deductions and credits for income tax, means—"paid or accrued" or "paid or incurred," according to the method of accounting upon the basis of which the net income is computed under Section 212.

Person: Includes individuals, partnerships and corporations.

Personal Service Corporation: A corporation whose income is ascribed primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income producing factor; but does not include any foreign corporation, 50 per cent. or more of whose gross income consists of either

- (1) Gains, profits, or income derived from trading as a principal, or
- (2) Of gains, profits, commissions, or other income derived from a government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

Possession of the United States

For the purpose of the Income Tax refers to

Porto Rico
Philippine Islands
Guam
Tutuila, Samoa
Virgin Islands

Present War: Means the war between the United States and the German Government.

Profit: Occupation, customary pursuit.

Reserve Fund Required by Law: In the case of an assessment insurance company, sums actually deposited with State or territorial offices pursuant to law as guaranty or reserve funds.

Secretary: Means Secretary of the Treasury.

Stock Dividend: A dividend paid in stock of a corporation (capitalization of surplus). It shall be considered income to the amount of earnings or profits distributed by means of such dividend.

If any stock dividend—

- (1) Is received by the taxpayer between January 1 and November 1, 1918, both dates inclusive, or
- (2) Is during such period bona fide authorized and declared and entered on the books of the corporation, and is received by a taxpayer after November 1, 1918, and before the expiration of 30 days after the passage of the Act of 1918 (passed the Senate February 13, 1919, and supposed to be signed by the President on his return from Europe).

Then such dividend shall, in the manner provided in Section 206 of the statute, be taxed to the recipient at the rates prescribed by law for the years in which the corporation accumulated the earnings or profits from which dividend was paid, but the dividend shall be deemed to have been paid from the most recently accumulated earnings or profits.

That is to say—

- (a) At the rate for 1918, to the extent of the 1918 accumulations of the corporation making the dividend;
- (b) Next, at the 1917 rates to the extent of 1917 accumulations of the corporation making the dividend;
- (c) Next, at the 1916 rates to the extent of the 1916 accumulations of the corporation making the dividend;
- (d) Next, at the rate or rates prevailing from February 28, 1913, to December 31, 1915, to the extent (if so much shall be included in the dividend) of accumulations within such period by the corporation making the dividend.

Thereafter any distribution of corporate earnings or profits accumulated prior to February 28, 1913, shall not be subject to tax and is not to be included in the return of income.

A stock dividend received after "30 days after the passage" of the Rev. Act of 1918 would appear to be taxable, if at all, as other dividends are taxed.

Taxable Year: The calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed for the purposes of the tax to individuals and corporations and insurance companies.

Taxable Year 1918: The calendar year 1918 or any fiscal year ending during the calendar year 1918.

Taxpayer: Includes any individual, corporation, trust or estate whose income is subject to tax imposed by the Revenue Act of 1918.

Trade: Business carried on for the procuring of subsistence.

In the employment of trade, contracted to "in trade," means the continued and continuous occupation with, and employment of,

one's time, attention and energy in the business which is carried on for subsistence or profit.

United States: When used in a geographical sense includes only the states, the territories of Alaska and Hawaii and the District of Columbia.

Withholding Agent: Any person required to deduct and withhold any tax from income paid by such person to another.

PART I

INCOME TAX

The Revenue Act of 1918 levies a tax on income— **1**

(1) **At one set of rates for 1918;** **2**

(2) **At lower rates for 1919 and subsequent years.** **3**

Income is the thing taxed, that is, a portion of income only is to be taken for the tax. The tax is never to exceed the amount of the income.

The subjects of taxation, or taxpayers: **4**

Are individuals (including Partnership and Personal Service Corporation income, as individual income); Estates or Trusts; and Corporations. These taxable entities may be citizens or aliens resident in the United States, or may be non-resident aliens with income from sources within the United States, and corporations, associations or joint stock companies, whether domestic or foreign.

EXEMPT INCOME

Not all income is taxed. Aside from certain specified exemptions and credits, the following items, representing income, are not taxed and are not to be included (except as otherwise specially provided for) in returns of income: **5**

(1) **The Proceeds of Life Insurance Policies paid upon the death of the insured to individual beneficiaries or to the estate of the insured;** **6**

(2) **The Amount Received by the Insured as a Return of Premium or Premiums paid by him under life insurance, endowment or annuity contracts, whether during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;** **7**

(3) **The Value of Property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income);** **8**

(4) **Interest upon** **9**

(a) **All obligations of a state, territory, or any political subdivision thereof, or the District of Columbia;** **10**

(b) **Securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916;** **11**

(c) **Obligations of the United States or its possessions;** **12**

(d) **Bonds issued by the War Finance Corporation.** **13**

Provided, that every person owning any of the obliga- **14**

tions, securities or bonds enumerated in clauses (a), (b), (c), (d) of item 4 shall, in the return required by this title, submit a statement showing the number and amount of such obligations, securities and bonds owned by him and the income received therefrom, in such form and with such information as the Commissioner may require.*

- 15** In the case of obligations of the United States issued after September 1, 1917, and in the case of bonds issued by the War Finance Corporation, the interest shall be exempt only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from taxation to the taxpayer both for Income and War Excess Profits Tax.
- 16** (5) **The Income of Foreign Governments** received from investments in the United States in stocks, bonds or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other sources within the United States;
- 17** (6) **Amounts Received, Through Accident or Life Insurance or Through Workmen's Compensation Acts** as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement on account of such injuries or sickness.
- 18** (7) **Income Derived From Any Public Utility** or the exercise of any essential governmental function, when such income accrues:
- 19** (a) To any state, territory or the District of Columbia, or any political subdivision of a state or territory, or
- 20** (b) To the government of any possession of the United States, or any political subdivision thereof—
Whenever prior to September 8, 1916, any state, territory or the District of Columbia, or any political subdivision of a state or territory, entered in good faith into a contract with any person, the object and purpose of which was to acquire, construct, operate, or maintain a Public Utility, no Income Tax is to be levied on the income derived from the operation of

*NOTE: This means that tax-free income must be used for the purpose of reducing the amount of a net loss as provided in Section 204 of the statute. The statement of this tax-free income on the return will give the Government both information and a check on claims for net loss.

such Public Utility, so far as the payment of such tax will impose a loss or burden upon such state, territory, District of Columbia, or political subdivision. This provision does not confer upon such person any financial gain or exemption, or relieve such person from payment of Income Tax upon the part or portion of such income to which such person is entitled under such contract.

- (8) So much of the Amount Received During the Present War 21
by a Person In the Military or Naval Forces of the United
States as salary or compensation in any form from the
United States for active services in such forces as does not
exceed \$3,500.

INCOME OF NON-RESIDENT ALIENS

In the case of non-resident alien individuals, gross income in- 22
cludes only the gross income from sources within the United States,
including the interest on bonds, notes, or other interest-bearing obli-
gations of residents, corporate or otherwise, dividends from resident
corporations, and including all amounts received (although paid
under a contract for the sale of goods or otherwise) representing
profits on the manufacture and disposition of goods within the United
States.

INCOME

The law provides that the tax— 23
“shall be levied, collected and paid for each taxable year upon the
net income”
of every taxpayer.

The law designates classes of income subject to tax, as gains,
profits, and income (compensation).

Gain: 24
An increase of any form of profit. Specifically, commercial profit
or emolument; as the gain of business; amount of increase or
addition.

Profit: 25
The advance in the price of goods sold beyond the cost of pur-
chase; the excess of receipts over expenditures, that is net earn-
ings; the receipts of a business after deducting current expenses;
it is equivalent to net receipts. In commerce, it means the advance
in the price of goods sold beyond the cost of purchase. The consid- 26
eration, in money, given for the purchase of a thing. It is
synonymous with value.

We have, therefore, as the definition of income: The amount of 27
money (excluding exemptions) coming to a person or corporation
within a specified time as opposed to the totality of goods and wealth
in existence, and in possession of such person or corporation, at the
beginning of such period.

28 Income

Is the flow of capital's service; what one's capital does for him; and is not necessarily synonymous with receipt. Receipt basis is the general rule for Income Tax purposes, however. Except where the books of account are consistently kept in a manner so as to make a different showing and a showing which will adequately and correctly reflect income, receipt basis is to be used, particularly for the purpose of ascertaining basic value measure in determining gain or profit. For the purpose of ascertaining gain or profit, there must be a realization of value through some form of receipt or completed and closed transaction, in which gain or profit will be measured.

29 Basic value is a question of fact and neither the Government nor the taxpayer is bound by book entries where the entries on the books do not correctly state the facts.

30 One's service may be his capital, but in such event there is no subtraction of capital from receipt for the purpose of ascertaining "gain or profit." In such case, the entire receipt has the characteristic of compensation or price of service, and is therefore to be included, gross, in the return of income.

31 Disservice is a negative service. A flow of disservice or negative income is called outgo. The difference between service and disservice is, therefore, to be designated net income, but net income for the purpose of the Income Tax is not necessarily the true net income either of an individual or an enterprise.

32 Gross Income:

Gross income, for the purpose of and within the meaning of the Income Tax Law, includes: gains, profits, and income derived from—

33 (a) Salaries, wages or compensation for personal service of whatever kind and in whatever form paid, or from professions or vocations;

34 (b) From trades, businesses, commerce, trades or dealings in property (whether real or personal) growing out of the ownership or use of or interest in such property.

35 (c) Also from interest, rent, dividends, securities;

36 (d) Also from the transaction of any business carried on for gain or profit;

37 (e) Or gains or profits and income derived from any source whatever.

38 Whenever a return of income is made, all or any of the foregoing received in an accounting period shall be included in the return of income for the taxable year in which received, except that stock

dividends received in 1918 are to be taxed according to the special provision of paragraph (d) of section 201 (see page 14).*

Net Income:

39

We begin with the proposition that there must be income or there can be no tax. When the net income of an individual equals or exceeds \$1,000 for a single individual or if married and not living with husband or wife; or \$2,000 for a married individual (living with consort); in the case of an estate or trust, if any single beneficiary has an interest in the net income of the trust of \$1,000 or \$2,000 for a married beneficiary living with consort if there be no beneficiary in the \$1,000 class; and regardless of the amount of income if the taxpayer is a corporation—all income which is of a taxable class must be included in the statement or return of income.

In this same return are also to be included the several deductions allowed by law. 40

The difference between the two sides (receipts and deductions) is the net income which is to be taxed. 41

Returns:

42

A return of income is a statement of income, deductions and credits, in the form prescribed by the Commissioner of Internal Revenue.

The subjects of taxation, or taxpayers, who are required to make and file returns of income are: 43

Individuals:

- (1) Citizens;
- (2) Aliens resident in the United States;
- (3) Non-resident aliens, for income received by them from sources within the United States.

Estates or Trusts:

44

Return to be made by the Fiduciary.

Corporations

45

If a husband and wife living together have, each, an aggregate income of \$2,000 or over, each shall make a return unless the income of each is included in a single joint return. The reference to separate income of husband and wife indicates that for the purpose of separate return, the income must be from separate estates. Income produced by or owned by one of the parties only but in which both share, is properly included in a single joint return. 46

The return of income in the case of individuals and estates or trusts, is to be made, or not made, according to whether or not the net income equals or exceeds or falls below the amount specified 47

*Allocation of dividends.

by the statute as requiring a return of income. The taxpayer is himself to decide whether or not he has a net income sufficient to require a return of income. If a return is to be made, then, of course, all income of a taxable class is to be entered in the return according to the form provided for that purpose.

- 48** Citizens of a possession of the United States, but who are not residents of the United States (see page 58), are subject to taxation on only income from sources in the United States in the same manner and under the same conditions as provided for nonresident aliens.
- 49** Citizens of the United States, regardless of where they reside and aliens resident in the United States, are subject to tax on their entire taxable income from all sources, domestic or foreign.
- 50** Nonresident aliens (and citizens of a possession of the United States and not resident in the United States, as explained above) must include in returns of income filed by or for them the gross income received by them from sources within the United States, including interest on bonds, notes or other interest bearing obligations of residents, corporate or otherwise; dividends from resident corporations, including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and distribution of goods within the United States.
- 51** If an individual is unable to make his own return, a return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer. Necessarily, the person making the return must have sufficient knowledge of the affairs and income of such taxpayer to enable him to make the return, and while the statute makes it the duty of the custodian of the person or property to make return for income in his custody, in cases where such custodian of the "person" and "property" is not the same person, one or both will be required to act, whichever will secure the desired result.
- 52** Returns of income of individuals shall include—
- (a) All their own personal income:
- 53** (b) Each partner's share of partnership profits, whether divided or distributed or not;
- 54** (c) His aliquot part of the net income of any personal service corporation, the same as for a partnership;
- 55** (d) His aliquot part of the net accumulation or undivided profits of a corporation which the Commissioner of Internal Revenue shall certify was either formed or is availed of for the purpose of preventing the imposition of the surtax upon income of its stockholders or members, through the medium

of permitting its gains or profits to accumulate instead of being divided or distributed.

In such cases, neither the partnership nor the corporation specified shall be subject to tax on its income or undivided profits, but the income shall be included and the tax paid by the individual owner or owners in all respects as for the income of a partnership, for both the Normal and Surtax. **56**

Returns of Income are to be Filed—

- (a) On or before the 15th day of the third month following the close of the fiscal year; **57**
- (b) If a return is made on the basis of the calendar year, it shall be filed on or before the 15th day of March next following the close of the calendar year for the income for which return is to be made. **58**
- (c) The Commissioner of Internal Revenue may grant a reasonable extension of time for filing returns of income whenever in his judgment good cause exists and he shall keep a record of every such extension and of the reason therefor. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months. **59**

When and Where Returns Are to Be Made:

Individuals (Form 1040-A for \$5,000 and under, Form 1040 for over \$5,000). Returns of income shall be made to the Collector for the district in which is located the residence or principal place of business of the person making the return, and if he has no legal residence or place of business within the United States, then to the Collector of Internal Revenue at Baltimore, Maryland. **60**

In Case of a corporation: Returns shall be made to the Collector of the District in which is located the principal place of business or principal office or agency of the Corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the Collector at Baltimore, Maryland. **61**

Several forms are provided, according to the nature of corporation—The general corporation form is Form 1031.

Returns When Accounting Period Changed:

For the first time in any of the Income Tax Laws of the United States, an individual is permitted to have a fiscal year and make returns of income as for a period other than the calendar year. The following, however, applies equally to corporations: **62**

If a taxpayer, with the approval of the Commissioner of Internal Revenue, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. **63**

64 For example:

Change from fiscal year ending March 31 to calendar year, and say, the last fiscal year ended March 31, 1917—

A separate return will be required for the period April 1, 1917, to December 31, 1917.

65 If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year:**66 For example:**

If the last calendar year for which return is made be 1917 and the designated close of fiscal year be March 31—

A separate return will be required for the period between December 31, 1917, and March 31, 1918.

67 If the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.**68 For example:**

Change from a fiscal year ending March 31 to a fiscal year ending June 30, and, say, March 31, 1918, was the close of the last fiscal year—

A separate return will be required for the period between March 31, 1918, and June 30, 1918.

69 If a taxpayer making his first return for Income Tax keeps his books on the basis of a fiscal year, he shall make a separate return for the period between the beginning of the calendar year in which the fiscal year ends and the end of such fiscal year.**70 For example:**

Business begun, say, April 1, 1918, and books of annual accounting kept as for April 1 to March 31—

A separate return would be required for the period between January 1 and March 31, 1919.

71 This means that this man will be required to make two returns for the first twelve months of his business:

(a) For the period April 1 to December 31, 1918.

(b) For the period January 1 to March 31, 1919.*

72 In all of the above cases, net income shall be computed on the basis of the time covered by the return and the tax shall be computed on the net income shown by each return at the rate or rates

*Such a proceeding is competent if Congress desires it, but where returns are required to cover a period of twelve months, represented either by a calendar year or fiscal year (when the business or enterprise covers that much time, and the example does), reasonableness would appear to be lacking in such a requirement.

for the calendar year in which the period of payment covered by the return is included; and the credits of personal exemption and allowance for dependents shall be reduced respectively to the amounts which bear the same ratio to the full credits provided by law as the number of months covered by the return bears to twelve months.

Partnerships and Personal Service Corporations:

73

When the taxable year of a partner and that of a partnership or personal service corporation coincide, the share of a partner in the partnership income shall be included in and become a part of his return of income for his taxable year. If a partner's net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then the partner shall include in his return his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed.

The partner shall, for the purposes of the Normal Tax, be allowed as credits (in addition to the credits allowed to him for personal exemption, dependents, dividends and interest on Liberty Bonds or bonds of the War Finance Corporation), his proportionate share of the dividends and interest on Liberty Bonds and bonds of the War Finance Corporation as are received by the partnership or personal service corporation.

Note:

It would seem, however, that in a case where Liberty Bond interest received by a partnership is subjected to the Excess Profits Tax levied by the Act of October 3, 1917—not the amount “received” by the partnership but the net only, or remainder of such Liberty Bond interest after deduction of Excess Profits Tax thereon, should be used by the partner as a credit for the purpose of the Normal Income Tax. Otherwise, inasmuch as the distributive share of the partner is determined by the difference between partnership net income and the Excess Profits Tax, a partner would receive in his personal return the benefit, as a deduction, of the amount of his share of partnership or Personal Service Corporation Excess Profits Tax, notwithstanding the fact that he had received the benefit of this deduction on the partnership or personal service corporation return.

75

There is this very interesting feature in connection with the taxation of income from Personal Service Corporations. The entire amount of such net income is to be included in the returns of the stockholders, but the amount of such income which shall be distributed as dividends will be subject to surtax only when paid from profits of the corporation accumulated between February 28, 1913, and December 31, 1917, whereas any undivided profit of the taxable year remaining with the corporation will be subject to both the

76

Normal Tax and Surtax in the returns of its stockholders, in all cases whenever those taxes apply. Another interesting feature is that dividends by Personal Service Corporations will be deemed to have been made from profits of the corporation accumulated since December 31, 1917, so long as any such profits remain undistributed and, therefore, only after everything accumulated since December 31, 1917, shall have been distributed, may there be a dividend by Personal Service Corporations which will be subject to the Surtax only to the stockholder. This will involve a segregation, by such corporations, of their profits with December 31, 1917, as the dividing line and necessitate bookkeeping accounts which will show the state of these funds at all times.

77 The provisions for tax on income for a taxable year, composed of parts of different calendar years for which different rates of tax apply, are to be found in:

78 Section 205—Fiscal year with different rates:

79 Section 206—Parts of income subject to rates for different years.
(Both of these relate to taxation of individual income and may refer to tax on corporate income.)

80 Section 218 (c and d)—Partnerships and Personal Corporations.

81 Section 335—Excess or War Profits Tax on income of corporations and partnerships at different rates for different calendar years.

Section 205:

82 (A) That if a taxpayer makes return for a fiscal year, beginning in 1917 and ending in 1918, his income tax for the taxable year 1918 shall be the sum of:

83 (1) The same proportion of an income tax for the entire period (computed on net income as determined under and at the rates provided by the Revenue Act of 1916 as amended by act of 1917 and by the Revenue Act of 1917) which the portion of such period falling within the calendar year 1917 is of the entire period, and

84 (2) The same proportion of an income tax for the entire period (computed on net income as determined under and at the rates provided by the Revenue Act of 1918) which the portion of such period falling within the calendar year 1918 is of the entire period: Provided, that in the case of a personal service corporation the amount to be paid shall be only that specified in Clause (1).

85 Any amount heretofore or hereafter paid on account of the income tax for 1917 part of such fiscal year, shall be credited towards the income tax for such fiscal year imposed by the Revenue Act of 1918, and if the amount so paid exceeds the amount of such tax

imposed by the Revenue Act of 1918, or, in the case of a Personal Service Corporation, the amount specified in Clause (1), the excess shall be credited or refunded in accordance with the provisions of Section 252.

(B). If a taxpayer makes a return for a taxable year beginning in 1918 and ending in 1919, the income tax for such fiscal year shall be the sum of:

- (1) The same proportion of the income tax for the entire period (computed on the net income as determined under and at the rates specified by the Revenue Act of 1918, for the calendar year 1918) which the portion of such period falling within the calendar year 1918 is of the entire period.
- (2) The same proportion of an Income Tax for the entire period (computed on net income as determined under and at the rates specified by the Revenue Act of 1918 for the calendar year of 1919) which the portion of such period falling within the calendar year 1919 is of the entire period.

(C) If a fiscal year of a partnership begins in 1917 and ends in 1918 or begins in 1918 and ends in 1919, then notwithstanding the provisions of subdivision (B) of section 218:*

- (1) The rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and
- (2) The rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year:
Provided, that in the case of a Personal Service Corporation with respect to a fiscal year beginning in 1917 and ending in 1918, the amount specified in Clause (1) shall not be subject to normal tax.

Section 218:

- (c) In the case of an individual member of a partnership which makes return for a fiscal year beginning in 1917 and ending in 1918, his proportionate share of any Excess Profits Tax imposed upon the partnership under Revenue Act of 1917 with

*The difference between paragraph (c) of Section 205 and Section 218 (b) is that 205 (c) prorates for the second year as well as the first, while 218 (b) takes the "remainder" or difference between proration for the first of the two calendar years and the entire net income. The result is the same.

respect to that part of such fiscal year falling in 1917, shall, for the purpose of determining the tax imposed by this title (Income Tax), be credited against that portion of the net income embraced in his personal return for the taxable year 1918 to which the rates, for 1917 apply.

- 93 (d) The net income of the partnership shall be computed in the same manner and on the same basis as provided for individuals, except that the deduction for contributions, permitted to individuals, shall not be allowed.

94 Section 206

That whenever parts of a taxpayer's income are subject to rates for different calendar years, the part subject to the rates for the most recent calendar year shall be placed in the lower* brackets of the rate schedule provided in this title, the part subject to the rates for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to that year, and so on until the entire net income has been accounted for. In determining the income, any deductions, exemptions or credits of a kind not plainly and properly chargeable against the income taxable at rates for a preceding year shall first be applied against the income subject to rates for the most recent calendar year; but any balance thereof shall be applied against the income subject to the rates of the next preceding year or years until fully allowed.

The Names or Titles of the Several Taxes:

95 (1) The Normal Income Tax—

This is a tax on the net income of individuals which is in excess of the sums of—

- 96 (a) (1) Dividends of corporations whose net income is subject to Income Tax, or
- 97 (2) Amounts received as dividends from Personal Service Corporations upon whose income, tax has been imposed by Act of Congress.
- 98 (b) The amount received as interest on obligations of the United States (Liberty Bonds) and bonds of the War Finance Corporation, which is included in the gross income reported in the return of income on which the tax is to be calculated.
- 99 (c) (1) \$1,000, in the case of a single person, or married person not living with husband or wife;

*This refers to the surtax table for individual income. Lower, here, means smaller. If income subject to surtax rates for 1918, 1917 and 1916 be reported, the surtax will be first computed on 1918 part of such income; to this amount will then be added the 1917 part of the income. The effect of this is to have tax on 1918 part of the income at lower 1918 surtax rates than would be the case if the operation had been reversed. (See Table III, part III.)

- (2) \$2,000 in the case of a married person living with husband or wife, or in the case of a head of a family. **100**
- (d) \$200 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer— **101**
- (1) If such dependent person is under 18 years of age. **102**
- (2) If such dependent person is incapable of self-support because mentally or physically defective, whether over or under 18 years of age. **103**

The rates of such tax are:—For citizens and resident aliens—

For 1918—6% upon the first \$4,000 of such excess, and **104**
12% on the remainder of such excess.

For 1919 and subsequent years—4% on the first \$4,000 of such excess and **105**

8% upon the remainder of such excess.

For nonresident aliens, the tax is 12% for 1918, and 8% for 1919 and subsequent years, without any exemption.

(2) Surtax:

This is a tax on the entire net taxable income of individuals in excess of \$5,000. The rates of such tax are: **106**

See Table on page 30.

(3) Income Tax on Corporate Income:

The Income Tax shall be levied, collected and paid upon the net income for each taxable year of every corporation. **107**

This is a tax on the net income, shown by the return, which is in excess of—

Credits Against Income:

- (1) The amount received as interest upon obligations of the United States (Liberty Bonds) and bonds of the War Finance Corporation, which is included in gross income in the return on which this tax is to be calculated. **108**
- (2) The amount of any Excess Profits Tax or War Profits Tax for the same taxable year; provided, that in the case of a corporation which makes return for a fiscal year beginning in 1917 and ending in 1918, in computing the tax as provided in section 205 (a), the tax computed for the entire period under title II (Excess Profits Tax) of the Revenue Act of 1917, shall be credited against the net income computed for the entire period for income tax (under the Revenue Act of 1916 as amended, and the Revenue Act of 1917), and the tax computed for the entire period under title III (War Excess Profits **109**

Over	Not Over	Taxable	Rate Tax	Tax	Total Tax
\$5,000	\$6,000	\$1,000	1%	\$10	\$10
6,000	8,000	2,000	2	40	50
8,000	10,000		3	60	110
10,000	12,000		4	80	190
12,000	14,000		5	100	290
14,000	16,000		6	120	410
16,000	18,000		7	140	550
18,000	20,000		8	160	710
20,000	22,000		9	180	890
22,000	24,000		10	200	1,090
24,000	26,000		11	220	1,310
26,000	28,000		12	240	1,550
28,000	30,000		13	260	1,810
30,000	32,000		14	280	2,090
32,000	34,000		15	300	2,390
34,000	36,000		16	320	2,710
36,000	38,000		17	340	3,050
38,000	40,000		18	360	3,410
40,000	42,000		19	380	3,790
42,000	44,000		20	400	4,190
44,000	46,000		21	420	4,610
46,000	48,000		22	440	5,050
48,000	50,000		23	460	5,510
50,000	52,000		24	480	5,990
52,000	54,000		25	500	6,490
54,000	56,000		26	520	7,010
56,000	58,000		27	540	7,550
58,000	60,000		28	560	8,110
60,000	62,000		29	580	8,690
62,000	64,000		30	600	9,290
64,000	66,000		31	620	9,910
66,000	68,000		32	640	10,550
68,000	70,000		33	660	11,210
70,000	72,000		34	680	11,890
72,000	74,000		35	700	12,590
74,000	76,000		36	720	13,310
76,000	78,000		37	740	14,050
78,000	80,000		38	760	14,810
80,000	82,000		39	780	15,590
82,000	84,000		40	800	16,390
84,000	86,000		41	820	17,210
86,000	88,000		42	840	18,050
88,000	90,000		43	860	18,910
90,000	92,000		44	880	19,790
92,000	94,000		45	900	20,690
94,000	96,000		46	920	21,610
96,000	98,000		47	940	22,550
98,000	100,000		48	960	23,510
100,000	150,000	50,000	52	26,000	49,510
150,000	200,000	50,000	56	28,000	77,510
200,000	300,000	100,000	60	60,000	137,510
300,000	500,000	200,000	63	126,000	263,510
500,000	1,000,000	500,000	64	320,000	583,510
Over 1,000,000			65		

See pages 75 to 80 for tables combining Normal and Surtax, at rates for 1918 and 1919.

Tax) of the Revenue Act of 1918 at the rates prescribed for the calendar year 1918, shall be credited against the net income computed for the entire period under this title (Excess Profits Tax).

What you do is this: Compute net income under the law in force for 1917 income; calculate 1917 excess profits tax; take of this tax for credit against 1917 part of income, such an amount as is equal to the proportion of time in 1917 to total time covered by return. Do the same thing for 1918 part of the income. The sum of the two apportionments for credit will be the amount of the excess profits credit against income for the fiscal year, for purpose of income tax. 110

(3) In the case of a domestic corporation, \$2,000. 111

The rates of this tax are:

For the calendar year 1918— 12% of the amount of the foregoing excess of net income. 112

For the calendar year 1919 and subsequent calendar years— 10% of the amount of such excess of net income. 113

Special rates for railroads during the period of Federal control—

For the calendar year 1918— 10% of the amount of foregoing excess is special income tax. 114

For the calendar year 1919 and subsequent calendar years— 8% of such excess is special income tax. 115

Just how these special rates were determined is not apparent from the Revenue Act. These special rates for railroads are predicated on the Act of March 21, 1918, entitled— 116

“An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes.”

Section 1 of this Act provides: “. . . that during the period of such Federal control it (the railroad) shall receive as just compensation an annual sum, payable from time to time in reasonable instalments, for each year and pro rata for any fractional year of such Federal control, not exceeding a sum equivalent as nearly as may be to its own average railway operating income for the three years ended June thirtieth, nineteen hundred and seventeen . . . 117

Every such agreement shall provide that any Federal Tax under the Act of October third, nineteen hundred and seventeen, or Acts in addition thereto or in amendment thereof, commonly called War Tax, assessed for the period of Federal control beginning January first, nineteen hundred and eighteen, or any part of said period, shall be paid by the carrier out of its own funds, or shall 118

be charged against or deducted from the just compensation; that other taxes assessed under Federal or any other governmental authority for the period of Federal control or any part thereof (not including, however, assessments for public improvements or tax assessed on property under construction, and chargeable under the classification of the Interstate Commerce Commission to investment in road equipment) shall be paid out of revenues derived from railway operations while under Federal control; that all taxes assessed under Federal or any other governmental authority for the period prior to January first, nineteen hundred and eighteen, whenever leviable or payable, shall be paid by the carrier out of its own funds, or shall be charged against or deducted from just compensation

- 119** Section 12. That moneys and other property derived from the operation of the carriers during Federal control are hereby declared to be the property of the United States. Unless otherwise directed by the President, such money shall not be covered into the Treasury, but such moneys and property shall remain in the custody of the same officers, and the accounting thereof shall be made in the same manner and form as before Federal control. Disbursements therefrom shall, without further appropriation, be made in the same manner as before Federal control, etc. . . , except that taxes under titles I (Income Tax) and II (Excess Profits Tax) of the Act entitled—

“An Act to provide revenue to defray war expenses, and for other purposes,” (Approved October 3, 1917)

- 120** Or any Act in addition thereto or in amendment thereof, shall be paid by the carrier out of its own funds. If Federal control begins or ends during the tax year for which any taxes so chargeable to railway tax accruals are assessed, the taxes for such year shall be apportioned to the date of the beginning or ending of such Federal control, and disbursements shall be made only for that portion of such taxes as is due for the part of such tax year which falls within the period of Federal control.

- 121** For this reason Section 230 (b) of the Revenue Law provides that the Income Tax on railroad corporation income, in the proportions specified,

“shall be treated as levied by an Act in amendment of title I of the Revenue Act of 1917.”

- 122** Thus it appears that the Revenue Act of 1918 levies income tax on railroad compensation or rental income from the Government—

Five-Sixths of the tax or 10% for 1918
and

Four-Fifths of the tax or 8% for 1919.

How the remaining 2% of the statutory levy is to be provided and handled is not, perhaps, pertinent in this publication.

Excess Profits Tax or War Profits Tax on Corporation Income:

The Excess Profits Tax for 1918 is:

123

On an amount of the net income not in excess of
 20% of invested capital, less Excess Profits
 Tax Credit, \$———, at.....30%
 On balance of net income.....65%

Excess Profits Tax \$.....

War Profits Tax:**124**

Net income, minus War Profits Credit, \$———,
 at 80% = ... \$.....
 Less Excess Profits Tax..... \$.....

War Profits Tax..... \$.....

For 1919 and Subsequent Years:**125**

On an amount of the net income not in excess of
 20% of invested capital, minus Excess Profits
 Credit, \$———, at 20% = ... \$.....
 On balance of net income at 40% = ... \$.....

Excess Profits Tax..... \$.....

For 1918 tax, the Excess Profits Tax, or War-Excess Profits Tax, **126**
 whichever is the higher, will be the amount of tax assessable unless
 the maximum tax applies.

(For maximum tax see page 88.)

As between the War-Excess Profits Tax and the Maximum Tax, **127**
 whichever is the lower, will be the amount of tax assessable.

The several rates of tax for Income Tax and War Tax are grouped **128**
 together that there may be found in one place a consideration of the
 several taxes which may be assessed on income.

DEDUCTIONS—DEFINITION:—

A deduction is an expenditure made as an incident to the creation **129**
 of income or is a recoupment out of income for the purpose of re-
 storing capital or keeping capital at par.

Credits:

The sum of the deductions having been subtracted from the gross **130**
 income carried into the return and the net income thus ascer-
 tained—certain other deductions from net income, technically called
 credits, are provided for and permitted. The tax in respect of which
 a credit is allowed is then calculated on the remainder of net income
 after deduction of the credit.

There are credits or deductions from net income and there are **131**
 credits on account of tax paid by the taxpayer or for tax of the

taxpayer collected by the Government through withholding at the source.

- 132** Credits against net income reduce the amount of income on which tax is to be calculated.
- 133** Credits against tax reduce the amount of tax which the taxpayer is required to pay on the face of the return in which the credit is taken.
- 134** The deductions or items, the sum of which is to be deducted from gross income for the purpose of ascertaining the net income of individuals and estates or trusts are:
- (1)
- 135** (a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—
- 136** (b) A reasonable allowance for salaries and other compensation for personal services actually rendered, and
- 137** (c) Including rentals or other payments required to be made as condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken title or is not taking title or in which he has no equity.
- (2)
- 138** (a) All interest paid or accrued within the taxable year on indebtedness except on indebtedness incurred or continued to purchase or carry obligations or securities—other than obligations of the United States issued after September 24, 1917¹—the interest upon which is wholly exempt from taxation under the Income Tax Law as income to the taxpayer,
- or
- 139** (b) In the case of a nonresident alien individual, the proportion of such interest which the amount of his gross income from sources within the United States bears to the amount of his gross income from all sources within and without the United States.
- 140** (3) Taxes paid or accrued within the taxable year imposed—
- (a) By the authority of the United States, except Income, War Profits and Excess Profits taxes;
- or
- 141** (b) By the authority of any of its possessions, except the amount of Income, War Profits and Excess Profits Taxes

¹This means that all interest on indebtedness incurred or continued for the purchase of Liberty Bonds may be deducted, even though part of such interest is exempt from all tax.

allowed as a credit against the tax calculated on the return, in accordance with the provisions of Section 222:

or

- (c) By the authority of any state or territory, or any county, school district, municipality or other taxing subdivision of any state or territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; 142

or

- (d) In the case of a citizen or resident of the United States, by the authority of any foreign country, except the amount of Income, War Profits and Excess Profits Taxes allowed as a credit on the taxes calculated under the return in accordance with the provisions of Section 222; 143

or

- (e) In the case of a nonresident alien individual, by the authority of any foreign country (except Income, War Profits and Excess Profits Taxes and tax assessed against local benefits tending to increase the value of the property assessed), upon property or business. 144

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business. 145
These are business losses.

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business, but in the case of a nonresident alien individual only as to such transactions within the United States. 146

These are losses outside of the business—speculation or investment—and is the provision corresponding to Section 5 (a) of the Revenue Act of 1916 as amended by the Revenue Act of 1917.

(6) Losses sustained during the taxable year on property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck or other casualty, or from theft, and if not compensated for by insurance or otherwise. 147

These are losses of property outside of the business and might be of investments or speculative property.

For net losses, see page 12 and Section 204 of the statute. 148

(7) Debts ascertained to be worthless and charged off within the taxable year. 149

(8) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. 150

- 151** (9) In the case of buildings, machinery, equipment or other facilities constructed, erected, installed or acquired on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for amortization for such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount allowed under this title or previous Acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war, the Commissioner may, and at the request of the taxpayer shall, re-examine the returns, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the tax, imposed by this title (Income Tax) and by title III (Excess Profits Tax) for the year or years affected, shall be redetermined; and the amount of tax due upon such redetermination, if any, shall be paid on notice and demand by the Collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of Section 252.
- 152** (10) In the case of mines, oil and gas wells, or other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case based upon cost, including cost of development not otherwise deducted; **Provided**, that in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date; **Provided further**, that in the case of mines, oil and gas wells, discovered by the taxpayer on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations prescribed by the Commissioner with the approval of the Secretary. In the case of leases, the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee.*
- 153** (11) Contributions or gifts made within the taxable year to corporations organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals (no part of the net earnings of which inures to the benefit of any private stockholder or individual), or to the special fund for vocational rehabilitation authorized by Sec-

*See note under paragraph 187.

tion 7 of the Vocational Rehabilitation Act,* to an amount not in excess of fifteen per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner with the approval of the Secretary. In the case of a nonresident alien individual, this deduction shall be allowed only as of contributions or gifts made to domestic corporations, or to such Vocational Rehabilitation Fund. 154

Special Loss:

(12)

- (a) At the time of filing returns for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 1 per centum per month from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the commissioner that such substantial loss has been sustained, then in computing the tax imposed by this title the amount of such loss shall be deducted from the net income. 155
- (b) If no such claim is filed, but it is shown to the satisfaction of the commissioner that during the taxable year 1919 the taxpayer has sustained a substantial loss of the character above described then the amount of such loss shall be deducted from the net income for the taxable 156

*(Pub. No. 178, 65th Cong. S-4557—Vocational Rehabilitation Act for Maimed and Disabled Soldiers.)

Sect. 7. That the board (Federal Board for Vocational Education) is hereby authorized and empowered to receive such gifts and donations from either public or private sources as may be offered unconditionally. All moneys received as gifts or donations shall be paid into the Treasury of the United States, and shall constitute a permanent fund, to be called the "Special fund for vocational rehabilitation," to be used under the direction of the said board, in connection with the appropriations hereby made or hereafter to be made, to defray the expenses of providing and maintaining courses of vocational rehabilitation; and a full report of all gifts and donations offered and accepted, and all disbursements therefrom, shall be submitted annually to Congress by said board.

year 1918 and the tax imposed by this title for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of Section 252.

Deductions in Returns of Nonresident Aliens:

- 157** In the case of a nonresident alien individual, the deductions allowed in paragraphs—
- (1) for expenses
 - (4) for interest
 - (7) bad debts
 - (8) depreciation
 - (9) war depreciation
 - (10) depletion
 - (12) special losses as herein before set out
- shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to source of income within and without the United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

Items Not Deductible:

- 158** In computing net income, no deductions shall be allowed in any case in respect of—
- 159** (a) Personal, living or family expenses;
- 160** (b) Any amount paid out for new buildings; or for permanent improvements or betterments made to increase the value of any property or estate;
- 161** (c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- 162** (d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is, directly or indirectly, a beneficiary under such policy.

Form of Return for Individuals (1040-A, for incomes of \$5,000 or less; 1040 for all over \$5,000);

- 163** The return is to be made on the form prescribed by the Commissioner of Internal Revenue. As previously noted, it is to include:
- (1) The gross income from all sources of a taxable class;
 - (2) The deductions provided by law;
 - (3) The difference between the sum of (1) and (2), which is the net income;

Credits Against Income (for calculation of normal tax):

164

(4) **From this difference or net income (for the purpose of the Normal Income Tax to individuals) the following credits, the sum of which is to be deducted from the net income—**

(a) The amount received as dividends from a corporation whose income is subject to Income Tax, and amounts received as dividends from a Personal Service Corporation out of earnings or profits upon which Income Tax has been imposed by Act of Congress;

(b) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation which is included in gross income under Section 213 (4d);

(c) (1) In the case of a single person or estate or trust, \$1,000;

or

(2) In case of a head of a family or a married person living with husband or wife, \$2,000.

A husband and wife living together shall receive but one personal exemption of \$2,000 against their aggregate net income; and in case they make separate returns, the personal exemption of \$2,000 may be taken by either or divided between them, as they may agree.

(d) \$200 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective;

(e) In the case of a nonresident alien individual who is a citizen or subject of a country which imposes an income tax, the credits allowed in (c) (personal exemption) and (d) (for dependents) shall be allowed only if such country allows a similar credit to citizens of the United States not residing in such country;

(5) The Normal Income Tax;

(6) The Surtax;

(7) The total tax;

Credits Against Tax:

165

(8) **The following credits for tax paid (the sum of which is to be deducted from the total tax):**

(a) The amount of tax collected at the source;

- (b) (1) In the case of a citizen of the United States, the amount of Income, War Profits and Excess Profits Taxes paid during the taxable year to any foreign country, from income derived from sources therein, or to any possession of the United States; and
- (2) In the case of a resident of the United States, the amount of any such taxes paid during the taxable year to any possession of the United States, because in both (1) and (2) such income will have been included in the return; and
- (3) In the case of an alien resident of the United States who is a citizen or subject of a foreign country, the amount of any such tax paid during the taxable year to such country, from income derived from sources in the foreign country, if such country, in imposing such taxes allows a similar credit to citizens of the United States residing in such country; and
- (4) In the case of any such individual, who is a member of a partnership or beneficiary of a trust or estate including his share of income from that source in his personal return for tax, he may have his proportionate share of the taxes paid to a foreign country or to a possession of the United States during the taxable year by the partnership or by the estate or trust.*

Adjustment Provision When Accrual Basis Is Used or in Case of Refund of Tax Paid

166

If the tax sought to be used as a credit is on an accrual basis, instead of having been actually paid, the Commissioner may require (as a condition precedent) of the taxpayer a bond with satisfactory sureties, in such penal sum as he may designate, conditioned for the payment by the taxpayer of any amount of tax found due upon re-determination because the actual amount of tax to a foreign country or possession of the United States may be reduced on actual payment from the amount of credit claimed on the accrual basis in his return by the taxpayer.

As a condition also of the allowance of a credit for

*There would appear to be an advantage in this because net income of the partnership or estate or trust will have been determined in part by the deduction of this tax. It is the net income which is divisible between the partners or beneficiaries. The reduction of his tax payable to the United States by the amount of his share of foreign tax paid by the partnership or estate or trust (even though such tax may have been in respect of foreign income), is equivalent to an additional exemption of income from tax.

such tax, when such tax has been actually paid, the taxpayer undertakes to notify the Commissioner of the fact of any refund of such tax.

In either of the two cases above, the amount by which the credit allowed is reduced must be added to the income tax due on the return. Any increased tax found due upon such redetermination of tax due from the taxpayer is to be paid by him on notice and demand from the Collector. If upon any such redetermination it is found that tax due to the United States has been overpaid, the amount of such overpayment shall be credited or refunded to the taxpayer in accordance with the provisions of Section 252.

These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within which such foreign country or such possession of the United States, and all other information necessary for the computation of such credits.

- (9) The difference between (7) and (8), which is the amount of the tax to be paid by or for the taxpayer.

PARTNERSHIP RETURNS:

While partnerships, per se, are not taxable entities except in 167 so far as they may be required to answer for Excess Profits Tax under the provisions of the Revenue Act of 1917, they are required to make returns of income on form 1065 and to show by such return the particulars of income and partnership interest. This partnership interest is to be accounted for in the personal return of the partner, and the partnership return will be available for check against the personal return.

ESTATES OR TRUSTS:

The income of estates or trusts is taxed as for a single individual 168 in three cases—

- (1) In the case of income received by estates or trusts during the period of administration or settlement of the estate;
- (2) In the case of income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;
- (3) In the case of income held for future distribution under the terms of a will or trust.

In each of these cases, the fiduciary shall be responsible for 169 making a return of income for the trust or estate for which he acts. The tax shall be imposed upon the net income of the trust as ascertained by such return and the tax shall be paid by the fiduciary, except that in determining the net income of the estate during the

period of administration, there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary, and the tax shall then be computed on the remainder of such income as for the estate or trust and said tax shall be paid by the fiduciary.

- 170 When the income of the estate or trust is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and when the income of an infant is collected by the guardian of such infant and is to be held or distributed as the Court may direct—in such cases, the fiduciary or guardian shall be responsible for making the return of income for the trust or estate and also for the infant. The net income shall be computed in the same manner and on the same basis as for an individual. In both such cases, there shall be made on the fiduciary return, a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year in which the return is made. The distributive share of a beneficiary being thus ascertained and stated, shall be included in his personal return of income, to be made by or for him, for the accounting period of such beneficiary in which the accounting period of the estate or trust shall end. In such cases the beneficiary, for the purpose of the Normal Tax, shall be allowed as credits in addition to the credits allowed him under Section 216 [p. 75], his proportionate share of dividends and Liberty Bond interest as are received by the estate or trust and the tax as ascertained on the beneficiary's return shall be paid by the beneficiary. When the tax is paid by the beneficiary, there will be no tax assessed to or paid by the fiduciary.

Profits of Corporations Other Than Personal Service Corporations When Taxable to the Stockholders:

- 171 Whenever a corporation, other than a Personal Service Corporation, is formed or availed of for the purpose of preventing the imposition of the Surtax upon its stockholders or members through the medium of permitting its gains or profits to accumulate instead of being divided or distributed, such corporation shall not be subject to Income Tax, Excess Profits or War Profits Tax, as the case may be, but the tax on such income shall be assessed to the stockholders or members of such corporation in the same manner as provided in subdivision (e) of Section 218 in the case of stockholders of a Personal Service Corporation. The fact that any corporation is merely a holding company, or that the gains or profits are permitted to accumulate beyond the reasonable needs of the business shall be prima facie evidence of a conspiracy to escape the surtax, and this presumption shall be conclusive when the Commissioner certifies that, in his opinion, such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of such gains and profits and the

names and addresses of the shareholders who would be entitled to the same if divided or distributed, and the amounts which would be payable to each.

Income of a Corporation:

The gross income of a corporation is the same as for an individual. Net income of a corporation is the difference between its gross income and the sum of the deductions allowed by law to a corporation. The net income is to be computed on the same basis and with the same regard to the time covered by the return as is provided in Section 212 (b) and in Section 226 for an individual. 172

Income of a Foreign Corporation:

In the case of a foreign corporation, gross income includes only the gross income from sources within the United States, including the interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States. 173

Deductions Allowed to Corporations:

In computing the net income of a corporation subject to the tax imposed by Section 230 (Income Tax), there shall be allowed as deductions—

- (1) All ordinary and necessary expenses paid or incurred during the taxable year in the carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not or is not taking title, or in which it has no equity; 174
- (2) All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carrying obligations or securities (other than obligations of the United States issued after September 24, 1917)* the interest upon which is wholly exempt from taxation as income to the taxpayer, or, in the case of a foreign corporation, the proportion of such interest which the amount of its gross income from sources within the United States bears to the amount of its gross 175

*See note on page 35.

income from all sources within and without the United States:

- 176** (3) Taxes paid or accrued within the taxable year imposed—
- 177** (a) By the authority of the United States (except In-
- come, War Profits and Excess Profits Taxes);
- 178** (b) By the authority of any of its possessions (except
- the amount of Income, War Profits and Excess
- Profits Taxes) allowed as a credit for taxes under
- Section 238 to be taken after the calculation of tax
- is made on the return:
- or
- 179** (c) By the authority of any state or territory, or any
- county, school district, municipality, or other taxing
- subdivision of any state or territory, not including
- those assessed against local benefits of a kind tend-
- ing to increase the value of the property assessed;
- 180** (d) In the case of a domestic corporation, by the author-
- ity of any foreign country (except the amount of
- Income, War Profits and Excess Profits Taxes),
- allowed as a credit under Section 238 to be taken
- after calculation of tax on return;
- or
- 181** (e) In the case of a foreign corporation, by authority of
- any foreign country (except Income, War Profits
- and Excess Profits Taxes, and the taxes assessed
- against local benefits of a kind tending to increase
- the value of the property assessed), upon the prop-
- erty or business:
- Provided, that in the case of obligors specified in
- subdivision (b) of Section 221 (debtor corporations
- as withholding agents in connection with tax cove-
- nant bonds) no deduction for the payment of the
- tax imposed by this title (Income Tax) or any other
- tax paid pursuant to the contract or provision re-
- ferred to in that subdivision shall be allowed.
- 182** (4) Losses sustained during the taxable year and not compen-
- sated for by insurance or otherwise;
- 183** (5) Debts ascertained to be worthless and charged off within
- the taxable year;
- 184** (6) Amounts received as dividends from a corporation which
- is taxable under this title upon its net income, and amounts
- received as dividends from a Personal Service Corporation
- out of earnings or profits upon which Income Tax has been
- imposed by Act of Congress;

- (7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. 185
- (8) In the case of buildings, machinery, equipment or other facilities constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the **amortization** of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war the Commissioner may, and at the request of the taxpayer shall, re-examine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the tax imposed by this title (Income Tax) and by title III (War Profits Tax) for the year or years affected shall be re-determined; and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of Section 252. 186
- (9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for **depletion** and for **depreciation** of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: 187
Provided, that in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date:
Provided further, that in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as a result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by

this paragraph shall be equitably apportioned between the lessor and lessee.*

- 188 (10) In the case of insurance companies, in addition to the above: (a) The net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with state or territorial officers pursuant to law as additions to guarantee or reserve funds); and (b) the sums other than dividends paid within the taxable year on policy and annuity contracts;
- 189 (11) In the case of corporations issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan continuing for life and not subject to cancellation, in addition to the above, such portion of the net addition (not required by law) made within the taxable year to reserve funds as the Commissioner finds to be required for the protection of the holders of such policies only;
- 190 (12) In the case of mutual marine insurance companies, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclusive, amounts repaid to policy holders on account of premiums paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;
- 191 (13) In the case of mutual insurance companies (other than mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclu-

*It is to be regretted that the Congress was not more specific in its requirements for division of property or deductions between lessor and lessee. The deductions allowed by this paragraph (depletion and depreciation) are a return or segregation of capital value from the proceeds of a well or mine and the deduction of this capital value from value realized from product, is a measure of income.

To say that this capital value "shall be equitably apportioned between the lessor and lessee" begs the question. It would seem that the person entitled to capital return, in such a case, is the owner of the capital. In the matter of depletion, such owner is the owner of the fee in product before its severance from the real estate. There certainly should be no division as between him and his lessee. If the contract be one of sale (so that in the conversion of oil or ore into personal property upon its severance from the fee, and upon such happening, the right of property in the personality becomes vested in the lessee), the entire capital value in such personal property would seem to be in the lessee as proprietor of the personality, and it is difficult to see what fair division of property there could be as between lessor and lessee in such a case. The capital of the lessee invested in this personality would be what it cost him. This would be royalty, plus any other cost properly assignable. In this case the lessor would properly have no part.

Again, a lessor may be himself a lessee, in which event there would be a division of property as between himself and his lessor and again between himself and his lessee.

In the case of depreciation, the object of which is a recoupment of capital value of physical property, lost through wear and tear in use in business, the proper owner of such restored capital would seem to be the owner of the physical property in the first instance and there would seem to be nothing equitable in requiring a division of this property with some other who has no title to it.

sive, (unless otherwise allowed under such paragraphs) the amount of premium deposits returned to their policy holders on account of premiums paid by them, and interest the payment of losses, expenses, and re-insurance reserves;

(14) Special Loss on Inventory or Because of Rebates: 192

(a) 193

- (1) If it appears to the taxpayer at or after the close of the taxable year, but before filing returns of income, that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or
- (2) That there is a substantial loss resulting from the actual payment after the close of such taxable year, but before filing return for such taxable year, of rebates in pursuance of contracts entered into during such year upon sales made during such year. 194

He may, at the time of filing returns for the taxable year of 1918, file a claim in abatement based on the foregoing facts. In such case, payment of the amount of the tax covered by such claim shall not be required until the claim is decided. If a claim in abatement is filed, it must be accompanied by a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall, on notice and demand by the collector, be paid by the taxpayer with interest at the rate of 1% per month from the time the tax would have been due had no such claim been filed. Upon a showing satisfactory to the Commissioner that such substantial loss has been sustained, the amount thereof shall be deducted from the net income and the Income Tax and War Excess Profits Tax shall be computed accordingly, and the bond shall become null and void. 195

(b) 196

If no claim in abatement is filed and the tax is computed and paid without regard to such loss it is thereafter shown to the satisfaction of the Commissioner that during the taxable year 1919

a substantial loss of the character above described has been sustained by the taxpayer, then the amount of such loss shall be deducted from the net income for the taxable year 1918 and the Income Tax and War Excess Profits Tax for 1918 shall be redetermined accordingly.

197

Any amount found to be due to the taxpayer upon the basis of such determination shall be credited or refunded to the taxpayer in accordance with the provisions of Section 252. In order to receive this consideration, however, the taxpayer must, within five years from the date when the return under consideration was due, file a claim for refund.

Deductions Allowed to Foreign Corporations:

(See par. 174 for income of a foreign corporation.)

198

Except as to interest and taxes (which shall be allowed as provided for in items (2) and (3) (pars. 175, 176), the deductions as provided for a domestic corporation shall be allowed a foreign corporation only if and to the extent that said deductions are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

Items Not Deductible:

199

There shall be no allowance as a deduction for any item specified as not allowed by Section 215 for individuals (see par. 158).

Credits Allowed Against Income:

For the purpose only of the Income Tax there shall be allowed the following credits against net income:

200

(a) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income:

201

(b) The amount of any War Excess Profits Taxes imposed for the same taxable year; Provided, that in the case of a corporation which makes return for a fiscal year beginning in 1917 and ending in 1918, in computing the tax as provided in Section 205 (a) the Excess Profits Tax computed for the entire period under the Revenue Act of 1917 shall be credited against the net income computed for the entire period for Income Tax under the Revenue Act of 1916, as amended by the Revenue Act of 1917 and as computed for Income Tax under the Revenue Act of 1917, and the War Excess Profits Tax computed for the

entire period at the rates prescribed for the calendar year 1918 shall be credited against the net income computed for Income Tax for the entire period under the Revenue Act of 1918.

- (c) In the case of a domestic corporation, \$2,000. 202

Credit Against Tax:

- (a) In the case of a domestic corporation the total tax so imposed for the taxable year for Income and War Excess Profits Taxes, shall be credited with the amount of any income, war profits and excess profits taxes paid during the taxable year to any foreign country, upon income derived from sources therein, or to any possession of the United States. 203

If accrued taxes when paid differ from the amount claimed as credits by the corporation, or if any tax paid is refunded in whole or in part, the corporation shall at once notify the commissioner, who shall redetermine the amount of the Income and Excess Profits Taxes due for the year or years affected and the amount of the taxes due upon such redetermination, if any, shall be paid by the corporation upon notice and demand by the collector, or the amount of taxes overpaid, if any, shall be credited or refunded to the corporation in accordance with the provisions of Section 252. In the case of such a tax accrued but not paid, the commissioner as a condition precedent to the allowance of this credit may require the corporation to give a bond with sureties satisfactory to and to be approved by him in such penal sum as he may require, conditioned for the payment by the taxpayer of any amount of taxes found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require. 204

- (b) This credit shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within such foreign country or such possession of the United States, as the case may be, and all information necessary for the computation of such credit. 205

- (c) If a domestic corporation makes a return for a fiscal year beginning in 1917 and ending in 1918, only that proportion of this credit shall be allowed which the part of such period within the calendar year 1918 bears to the entire period. 206

Corporation Returns:

Every corporation subject to Income Tax and every Personal Service Corporation shall make a return, stating specifically the 207

items of its gross income and the deductions and credits allowed by the statute. The return shall be sworn to by the president, vice-president or other principal officer and by the treasurer or assistant treasurer. If any foreign corporation has no office or place of business in the United States, but has an agent in the United States, the return shall be made by the agent. In cases where receivers, trustees in bankruptcy, or assignees, are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control. Corporation returns shall be subject to the provisions of Section 226—change of accounting period, and of Section 228 providing for the correction of understatement of income in returns. When there is a change in the accounting period as provided for in Section 226, the credit of \$2,000 allowed corporations shall be reduced to an amount, for each return, which bears the same ratio to the full credit as the number of months in the period for which such return is made bears to twelve months.

208 Consolidated Returns:

- (a) Are required to be made by affiliated corporations for income and invested capital and Income Tax and War Excess Profits Tax shall be computed and determined under such return;

Provided, that there shall be taken out of such consolidated net income and invested capital, the net income and invested capital of any such affiliated corporation organized after August 1, 1914, and not successor to a then existing business, 50 per centum or more of whose gross income consists of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive. In such case the corporation so taken out shall be separately assessed on the basis of its own invested capital and net income and the remainder of such affiliated group shall be assessed on the basis of the remaining consolidated invested capital and net income.

209

In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific

credit of \$2,000 (as provided in Section 236); in computing the war-profits credit (as provided in Section 311) only one specific exemption of \$3,000; and in computing the excess-profits credit (as provided in Section 312) only one specific exemption of \$3,000.

- (b) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated— **210**

(1) If one corporation owns directly or controls through closely affiliated interests or by a nominee or nominees substantially all the stock of the other or others, or,

(2) If substantially all the stock of two or more corporations is owned or controlled by the same interests.

- (c) For the purposes of Section 238 (credit for tax) a domestic corporation which owns a majority of the voting stock of a foreign corporation shall be deemed to have **211**

paid the same proportion of any income, war-profits and excess-profits taxes paid (but not including taxes accrued) by such foreign corporation during the taxable year to any foreign country or to any possession of the United States upon income derived from sources without the United States, which the amount of any dividends (not deductible under Section 234) received by such domestic corporation from such foreign corporation during the taxable year bears to the total taxable income of such foreign corporation upon or with respect to which such taxes were paid:

Provided, that in no such case shall the amount of the credit for such taxes exceed the amount of such dividends (not deductible under Section 234) received by such domestic corporation during the taxable year.

Payment of Tax at the Source:

Source is the place where income originates. **212**

The payment referred to is payment of tax assessable on income of the taxpayer. **213**

A taxpayer discharges part of his tax obligation in this way, so that in fact, the operation is "collection," by the Government, of tax at the "source" of such income. The collection is made by requiring the source to deduct and withhold from gains, profits and income (payable by the source to the taxpayer) a percentage thereof and turn the same over to the Government on account of tax assessable on income of the taxpayer. **214**

Withholding is to be made in respect of the Normal Income Tax only. The subjects of withholding are— **215**

- (a) Nonresident alien individuals (and partnerships as to tax-covenant bond interest) for all income from sources in the United States subject to the Normal Tax; **216**

- 217** (b) Foreign corporations whose income from sources in the United States is subject to Income Tax and which corporations are not engaged in trade or business within the United States and do not have an office or place of business in the United States;
- 218** (c) An individual citizen or resident of the United States or domestic partnership, as to tax-covenant bond interest only. These last may claim exemption from withholding, though it is usually to their interest to have withholding made from this class of income.
- 219** There is no withholding for tax on account of domestic corporations.
- 220** The rate of Normal Tax on net income of nonresident aliens, whether individuals or corporations, is 12% for 1918 and 8% thereafter for the individuals and 10% for the corporations.
- 221** The percentage required to be deducted and withheld is 8% for such individuals and 10% for such corporations, of all net income from sources within the United States of such nonresident alien individuals or corporations subject to Normal Income Tax, except interest on bonds having a tax-covenant, and as to this tax-covenant bond interest, the percentage thereof to be withheld is 2% only, regardless of whether the owner of such income is a nonresident alien (individual, partnership or corporation) or citizen or resident of the United States (individual or partnership). The effect of this is that for 1918 tax, for all income other than tax-covenant bond interest payable to a nonresident alien individual or corporation, as herein specified, there will be withheld therefrom 8% thereof for nonresident alien individuals and 10% therefrom for nonresident alien corporations, leaving to be paid on return made by or for the nonresident alien individual 4% and for the nonresident alien corporation 2%, and for tax-covenant bond interest to whomsoever payable, there will be withheld therefrom 2% thereof, leaving to be paid on return made by or for the taxpayer 10% for 1918. For years subsequent to 1918, the entire tax will be withheld on such income other than tax-covenant bond interest payable to a nonresident alien. And 2% only will continue to be withheld from tax-covenant bond interest, leaving 6% to be paid on return made by or for the individual taxpayer and 8% for the foreign corporation, and whether the individual is a nonresident alien, or citizen or resident of the United States.
- 222** The only cases of nonresident alien income from sources in the United States subject to the Normal Income Tax which will not be taxable on the full amount of such income are those cases (to be provided for by regulations in the discretion of the Commissioner, under Section 216 (e) and Section 217) in which the personal exemption of \$1,000 or \$2,000, as the case may be, and the exemption

on account of dependents of \$200 each (as provided by Section 216) (c and d) are granted as reciprocation on the part of the United States because its citizens (having income from sources within but not resident in the country of which the nonresident alien individual receiving United States exemptions, is a citizen or subject and which country imposes an income tax) are granted a similar exemption or credit by such foreign country. The burden of proof will be on the nonresident alien to make a showing which will give him the advantage of such a regulation.

The persons who are to make the deduction and withholding are: 223

All individuals, corporations and partnerships, in whatever capacity acting, who have the control, receipt, custody, disposal or payment of—

Income from which withholding is to be made at the rate of 8% for individuals and 10% for foreign corporations.

Interest
Rent
Salaries
Wages
Premiums
Annuities
Compensations
Remunerations
Emoluments

224

or other fixed or determinable annual or periodical gains, profits and income (other than income received as dividends from a corporation whose income is subject to Income Tax) of any nonresident alien individual or nonresident alien corporation not engaged in trade or business in the United States and not having an office or place of business therein. And—

Income from which withholding is to be made at the rate of 2% only.

Interest on bonds, mortgages, or deeds of trust, or other similar obligations of a corporation which contain a contract or provision by which the obligor

- (a) Agrees to pay any portion of the tax imposed upon the obligee by the Income Tax law, or
- (b) To reimburse the obligee for any portion of the tax, or
- (c) To pay the interest without deduction for any tax which the obligor may be required or permitted—

225

(1) To pay thereon, or
(2) to retain therefrom
under any law of the United States.

- 226** And this 2% on account of tax on income of the owner of such interest is to be withheld regardless of whether such income is payable annually or at shorter or longer periods and whether payable to a nonresident alien individual or to an individual citizen or resident of the United States or to a partnership or to a foreign corporation not engaged in business or trade in the United States and not having an office or place of business therein. Such withholding, however, shall not be made in the case of a resident or citizen of the United States if, on or before February first next preceding the date on which the return of income on a calendar year basis is to be made, such citizen or resident shall file with the withholding agent a signed notice in writing claiming the benefit of the personal exemption and credit for dependents granted by law, and likewise, in the case of a nonresident alien individual who comes within the provisions of regulations (under Section 217) provided by the Commissioner for claiming such exemptions and credits.
- 227** Under the Act of October 3, 1913, and likewise under the Act of September 8, 1916 (both of which provided for withholding of Income Tax from all individual income subject to the Normal Tax and which should be in excess of the personal exemptions provided by law and claimed by the taxpayer), there were ownership certificates to be issued in collecting bond interest and on which certificates there was a provision for claiming exemption from withholding, and there was an additional certificate for claiming exemption from withholding on income subject to the Normal Tax, other than bond interest. The Act of October 3, 1917, substituted "**information at the source**" for "**withholding at the source**" in all cases except in the case of citizens and aliens resident in the United States, for interest on bonds having a tax-covenant, while the income of nonresident aliens remained subject to withholding as before and the nonresident alien had no exemptions. The provisions of the Act of 1917 with respect to withholding are continued in the present law.
- 228** Tax-covenant bond interest owned by citizens and resident aliens being the only income in respect of which an exemption from withholding under the Act of 1917 could be claimed and this claim not being limited in any way to the amount of personal exemption granted by law, ownership certificate form 1,000 (printed in black ink on white paper) was provided as the means of notifying debtor corporations that the owner of the income elected not to claim exemption and so withholding was to be made. All other bond interest owned by citizens and resident aliens not being subject to withholding, an ownership certificate, form 1001 (printed in black ink on yellow paper) was provided. The effect of using a yellow certificate with coupons from bonds having a tax-covenant was a notification from the owner of such income to the debtor corporation that the owner elected to claim exemption from withholding. In which event, the debtor corporation was relieved from withholding and the taxpayer assumed his tax obligation in full in respect of his tax-

covenant bond interest and consequently released the debtor corporation from the obligation of reimbursement under its tax-covenant in the bond. Inasmuch as nonresident aliens had no exemption which could be claimed, he or it was required to use a white certificate with respect to all bond interest.

Owners of Tax Covenant Bonds Not Known to the Withholding Agent:

The Commissioner of Internal Revenue may authorize the deduction or withholding of tax at the rate of 2% from tax-covenant bonds, the owners of which or of the interest coupons therefrom, are unknown to the debtor corporation or its withholding agent. **229**

Withholding Returns:

Every individual, corporation or partnership required to deduct and withhold any tax as herein provided must make a return thereof on or before **March First** each year and shall on or before **June Fifteenth** then next following, pay the tax (so collected for the Government by such deduction and withholding) to the official of the United States Government authorized to receive it. Every withholding agent is made liable for such tax and is indemnified against the claims of all persons for the amount of any payments made in accordance with the provisions of law for withholding. **230**

Income from which withholding is made must be included in full in the return of income of the recipient of such income, but the amount of tax so withheld shall be credited against the amount of Income Tax as computed in such return. **231**

If any tax required to be deducted and withheld is paid by the recipient of the income, the tax shall not again be recollected from the withholding agent and no penalty shall attach for failure to return or pay said tax by the withholding agent, unless such failure was fraudulent and for the purpose of evading payment. **232**

Payment of Taxes.

Except tax withheld at the source, which is to be paid over on or before **June Fifteenth** each year to the proper official of the Government authorized to receive it, the tax shall be paid: **ALL** at the time of filing return or in **four instalments**, each consisting of one-quarter of the total amount of the tax: **233**

	If on Basis of Calendar Year
The 1st instalment shall be paid at the time fixed by law for filing the return	March 15th
The 2nd instalment shall be paid on the 15th day of the third month thereafter	June 15th
The 3rd instalment shall be paid on the 15th day of the sixth month thereafter	September 15th
The 4th instalment shall be paid on the 15th day of the ninth month thereafter	December 15th

- 234** Where an extension of time for filing the return is granted, the time for payment of the first instalment shall be postponed until the expiration of the period of extension only, other instalments must be paid within the required time unless the Commissioner provides differently in granting the extension. In any case, where the payment of the instalment is extended at the request of the taxpayer, there shall be added to such instalment as interest thereon $\frac{1}{2}$ of 1% from the time it would have been due, if there had been no extension, until paid. If any instalment is not paid when due, the entire amount of tax then unpaid shall become due and payable upon notice and demand by the collector.

Penalties:

- 235** For understatement of income in a return, due to negligence on the part of the taxpayer, but without intent to defraud—
- 236** If the understatement is false or fraudulent with intent to evade the tax, the penalty shall be—
- 237** For failure to pay tax in time—
- 238** Where, however, any amount of tax otherwise due and payable is held over because of a pending claim for abatement and which claim is disallowed, the only penalty shall be—
- 239** Whenever the issuance of a warrant for distraint for collection of tax becomes necessary, there shall be added as a part of the tax—
- 240** For failure to make return, pay or collect tax, or supply information at the time or times required—
- 5% of the total amount of the deficiency plus interest at the rate of 1% per month on the amount of the deficiency of each instalment from the time the instalment was due.
- 50% of the amount of the deficiency and the taxpayer shall be deemed guilty of a misdemeanor and subject to further penalty of a fine of not more than \$10,000, or imprisonment for not more than one year, or both, with the cost of prosecution.
- 5% of the amount due but not paid, plus 1% per month upon such amount from the time it became due.
- Interest at the rate of $\frac{1}{2}$ of 1% per month from the time the amount was due until the claim is decided.
- The sum of \$5.00.
- In addition to the above:
- Penalty \$1,000, plus an addition to the tax of 25% thereof.

If the failure is wilful, penalty is—	{	\$10,000, or imprisonment for not more than one year, or both, with costs of prosecution plus an addition to the tax of 50%.	241
---------------------------------------	---	--	------------

Information at the Source:

When requested by the Commissioner, corporations shall file information and particulars as to the payment of dividends; **242**

Brokers, as to the business transacted for and with customers, giving the particulars called for. **243**

In all other cases, except payment of interest on obligations of the United States, all individuals, corporations and partnerships, in whatever capacity acting, making payment of income to another in any taxable year of \$1,000 or more, shall make a return of information as required, setting forth the amount and name and address of the recipient of such payment. **244**

Such payments may be required regardless of amount in the case of payment of interest on bonds, mortgages, deeds of trust or other similar obligations of corporations and for foreign items. **245**

FOREIGN ITEMS

Income represented by Coupons, Checks or Bills of Exchange, in respect of foreign payments of interest or dividends, is subject to both the Normal and Surtax for individuals and to the Normal Tax and Excess Profits Tax to corporations, but is not subject to withholding. (An exception is made by T. D. 2759 of the case of a foreign corporation having a paying agent in the United States and issuing bonds which have a tax-free-covenant clause. In such a case, it was provided that if the owner of the income desired withholding at the source, he might use form 1000 properly modified to show that the debtor has a paying agent in this country, otherwise form 1001-A would be used.)* The first collecting agent in the United States (whether individuals, corporations or partnerships) undertaking as a matter of business or for profit the collection of such foreign payments, is required to obtain a license therefor and be subject to regulations enabling the Government to obtain the information requisite for the purposes of the tax on such income, under penalty for violation of such regulations, of being guilty of a misdemeanor and subject to a fine of not more than \$5,000, or imprisonment for not more than one year, or both. The ownership certificate provided to be used by citizens and resident aliens in connection **246**

*Logically, this must refer to a case where the tax-covenant in the foreign obligation is in respect of a tax levied "*under some law of the United States.*" Sometimes bonds of foreign governments and foreign corporations contain tax-covenants but only in respect of tax levied by such foreign government or governments to which the foreign corporation bears allegiance. Obviously this would not apply, because both Sec. 9 (c), Act October 3, 1917, and Sec. 221 (b) of the Revenue Act of 1918, limit the obligation in respect of tax-covenant contracts in bonds, to a tax levied "*under any law of the United States.*"

with collection of such income is form 1001-A. Where such income is payable to a nonresident alien through an agency in the United States, the certificate to be used is form 1071 (printed in black ink on yellow paper).

- 247** These are the regulations under the Revenue Act of 1917, and as the present law is the same it is assumed the regulations in this respect will be the same for the purpose of the present law.

Possessions of the United States:

Porto Rico
Philippine Islands
Guam
Tutuila
Samoa
Virgin Islands.

- 248** The Income Tax Law in effect in Porto Rico and the Philippine Islands is the Act of 1916 as amended.

- 249** A tax imposed in Porto Rico or the Philippine Islands shall not be taken as a credit against tax in a return of income to the United States, nor shall a dividend paid by a Porto Rico or Philippine Islands corporation be taken by a corporation as a deduction for dividends received, in accordance with item 6, Section 234-A.*

- 250** So far as citizens of these possessions, and who are not otherwise citizens of the United States, are concerned, they shall be taxed in the United States only on income received from sources in the United States, technically speaking, for the purpose of Income Tax and such income shall be taxed as for a nonresident alien.

Corporations the Income from Which Is Exempt from Income Tax and War-Excess Profits Tax Because Such Corporations Are Themselves Exempt from Tax:

- 251** (1) Labor, agricultural or horticultural organizations;
- 252** (2) Mutual savings banks not having a capital stock represented by shares;
- 253** (3) Fraternal beneficiary societies, orders or associations.
(a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
(b) Providing for the payment of life, sick, accident or other benefits to the members of such society, order, or association or their dependents;
- 254** (4) Domestic building and loan associations and co-operative banks without capital stock organized and operated for mutual purposes and without profit;

*This means that such income received by a United States corporation is subject to both the normal income tax and to the War-Excess Profits Tax to the receiving corporation.

-
- (5) Cemetery companies owned and operated exclusively for the benefit of their members; 255
- (6) Corporations organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; 256
- (7) Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual; 257
- (8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare; 258
- (9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member; 259
- (10) Farmers or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or co-operative telephone companies, or like organizations of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting expenses; 260
- (11) Farmers', fruit growers', or like associations, organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them; 261
- (12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom; and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; 262
- (13) Federal land banks and national farm loan associations as provided in Section 26 of the Act approved July 17, 1916, entitled— 263
- “An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositories and financial agents for the United States, and for other purposes.”
- (14) Personal Service Corporations. 264

PART II

THE WAR-EXCESS PROFITS TAX

- 265** Corporations whose income is exempt from Income Tax will not be required to make return for the Excess Profits Tax, and corporations whose net income for the taxable year is less than \$3,000 will be exempt from the Excess Profits Tax.
- 266** All other corporations having a net income of \$3,000 or over, as shown by the Income Tax return (Form 1031), will be required to make an Excess Profits Tax return (Form 1103) for the purpose of calculation of the War-Excess Profits Tax.
- 267** In the case of any corporation engaged in mining gold, the portion of the net income derived from gold mining shall be exempt from Excess Profits Tax and the tax on the remaining portion of the net income shall be the proportion of a tax computed without the benefit of this exception which such remaining portion of the net income bears to the entire net income. It will, therefore, be necessary for such corporation to make an Excess Profits Tax return if its "other" net income is \$3,000 or over.
- 268** The Excess Profits Tax is a tax at graduated rates on the difference between the total net income (excluding dividends and exempt income) and Excess Profits Tax credit.
- 269** The War Profits Tax is the difference between the Excess Profits Tax and 80% of the difference between net income for Excess Profits Tax purposes and the War Profits credit when such 80% is greater than the Excess Profits Tax, otherwise, there is no War Profits Tax.
- 270** When the War Profits Tax applies, the 80% calculation (without deducting the Excess Profits Tax) will be the amount of the War-Excess Profits Tax.
- 271** The maximum tax is the limit beyond which the amount of the War-Excess Profits Tax may not go. This tax, as a rule, will apply, if at all, only when the invested capital is less than \$106,250, and for part of that zone only (see chart on page 83).
- 272** As between the Excess Profits Tax and War Profits Tax; whichever is the higher, will be the amount of the War-Excess Profits Tax.
- 273** As between the War-Excess Profits and the Maximum Taxes; whichever is the lower, will be the amount of tax assessable.
- 274** Maximum Tax:
- | | Over | Not Over | Taxable
Zone Rate |
|--|-------------------|------------------------|---------------------------------|
| The maximum tax for 1918 is | \$3,000
20,000 | \$20,000
net income | = \$17,000@30%
= \$.....@80% |
| 275 For 1919 and subsequent years | \$3,000
20,000 | \$20,000
net income | = \$17,000@20%
= \$.....@40% |

War-Excess Profits Tax Rates for 1918:**276****First Bracket**

30 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital;

Second Bracket

65 per centum of the amount of the net income in excess of 20 per centum of the invested capital;

Third Bracket

The sum, if any, by which 80 per centum of the amount of the net income in excess of the war-profits credit (determined under section 311) exceeds the amount of the tax computed under the first and second brackets.

Rates for 1919 and Subsequent Years:**First Bracket**

20 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital; **277**

Second Bracket

40 per centum of the amount of the net income in excess of 20 per centum of the invested capital.

Government Contract Income:

For 1919 and subsequent years, 1918 War-Excess Profits Tax rates shall apply in such cases as follows: **278**

Upon the net income of every corporation which derives for such year a net income of more than \$10,000 from any Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive, a tax equal to the sum of the following:

- (1) Such a portion of the tax computed at the 1918 rates on the entire net income as the part of such net income attributable to such contract or contracts bears to the entire net income. In computing such tax, the Excess Profits Tax credit and War Profits Tax credit applicable to the taxable year shall be used;
- (2) Such a portion of the tax computed at the 1919 rates as the part of the net income attributable to such Government contract or contracts bears to the entire net income.

The determination of net income and the details thereof, between Government contract income and income from other sources, is to be made under special rules prescribed by the Commissioner for that purpose. **279**

The Excess Profits Tax Credit—Where Applied:

Excess Profits Tax credit is to be applied exclusively under the first bracket unless it exceeds the net income applicable to that **280**

bracket, in which event the remainder of such credit may be deducted from the amount of net income in the second bracket.

Railroad Income:

281 While the tax on such income is to be computed as in any other case, yet because of the present peculiar situation of railroads, under the Act of March 21, 1918, the tax is to be treated as levied by an Act in amendment of Title II Revenue Act of 1917 (see par. 114-122).

282 The specific exemption for War-Excess Profits Tax is \$3,000. When the tax is computed for a period less than 12 months, the specific exemption of \$3,000 is to be reduced to an amount which is the same proportion of \$3,000 as the number of months in the period is of 12 months.

Excess Profits Tax Credit:

283 The Excess Profits Tax credit is 8% of the invested capital for the taxable year plus \$3,000.

War Profits Tax Credit:

The War Profits Tax credit is

284 (a) (1) A specific exemption of \$3,000.

285 (2) An amount equal to the average pre-war net income, plus or minus as the case may be, 10% of the difference between the average pre-war invested capital and invested capital of the taxable year.

The total amount of this credit must always be the same proportion of the full credit that the number of months in the period covered by the return is of 12 months.

286 (b) If the corporation had no net income for the pre-war period, or if the amount computed under (2) above is less than 10% of the invested capital for the taxable year, then the War Profits credit shall be:

287 (1) A specific exemption of \$3,000.

288 (2) 10% of the invested capital for the taxable year.

Provisional

289 (3) The War Profits credit shall be computed as above in the case of any corporation which was not in existence during the whole of at least one calendar year during the pre-war period if

(a) A majority of its stock at any time during the taxable year is owned or controlled, directly or indirectly, by a corporation which

was in existence during the whole or at least one calendar year during the pre-war period, or,

- (b) If 50% or more of its gross income as computed for Income Tax consists of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 1, 1918, both dates inclusive;
- (c) If the corporation was not in existence during the whole of at least one calendar year during the pre-war period and does not fall within the classification of "Provisional 3" above, the War Profits credit shall be:
 - (1) A specific exemption of \$3,000.
 - (2) An amount equal to the same percentage of the invested capital for the taxable year as the average percentage of net income to invested capital, for the pre-war period, of corporations engaged in a trade or business of the same general class as that conducted by the taxpayer, and which average percentage shall be determined by the Commissioner on the basis of data contained in returns made under Excess Profits Law in the Revenue Act of 1917 and the average known as the median shall be used. The amount as herein provided shall in no case be less than 10% of the invested capital of the taxpayer for the taxable year, but unless the average percentage aforesaid shall have been determined and published at least 30 days prior to the time when such return of the taxpayer is due, then for the purpose of the return the amount to be used shall be 10% of the invested capital for the taxable year. However, when such average percentage is determined, it shall be substituted for the purpose of determining the correct amount of the tax. It is assumed that this will be a matter of correction in the office of the Commissioner and of which correction the taxpayer will be duly and fully notified.

A foreign corporation shall not have a specific exemption of \$3,000, but will have the balance of credits in manner and form as hereinbefore set out. **290**

Tax Upon a Combination of Income from Different Sources:

If part of the net income of a corporation is derived—

- 291** (1) From a trade or business (or branch of a trade or business) in which the employment of capital is necessary, and
- 292** (2) A part (consisting of not less than 30% of the total net income) is derived from a separate trade or business (or a distinctly separate branch of a trade or business) which, if constituting the sole trade or business would bring it within the class of—

“Personal Service Corporations,”

then the tax upon the first part of such net income shall be separately computed (allowing in such computation only the same proportionate part of credits authorized in sections 311 and 312), and the tax upon the second part of such net income shall be the same percentage thereof as the tax so computed upon the first part is of the first part; Provided, that the tax on the second part shall in no case be less than 20% thereof, unless the tax computed without the benefit of this section would be less than 20% of the entire net income, in which event the entire tax shall be computed without the benefit of this section as other War-Excess Profits taxes are determined. The total tax computed under this section shall be subject to the limitations of the maximum tax.

Pre-War Period:

- 293** The pre-war period is the calendar years 1911, 1912 and 1913. In ascertaining the average net income of this period, the returns of income as made within this period should show the correct facts as to net income.

Directions for Computation of Average Pre-War Net Income:

- 294** For 1911-1912, the net income as determined by return under Section 38, Act August 5, 1909..... \$
- Add tax imposed under this Act and paid during these years..... \$
- For 1913, net income as determined by return under Act of October 3, 1913..... \$
- Add tax under Act 1909 paid in 1913..... \$
- Deduct dividends received from corporations whose net income was subject to tax under Act of 1913 \$
-
- Divide result by number of years within the period.
- Average pre-war net income..... \$
- For the taxable year, the net income as determined under the Revenue Act of 1918..... \$

Invested Capital:

Invested capital for the purpose of the War Excess Profits Tax is the sum of all assets, the income from which is subject to the War-Excess Profits Tax, valued in accordance with the provisions of Sections 325, 326, 330, 331. These are designated "admissible assets." All other assets are designated as "inadmissible assets." **295**

Computation of Invested Capital:

- I. Determine capital and surplus as shown on the books at the beginning of the taxable year. **296**
 - (1) Paid in capital.
 - (2) Paid in surplus.
 - (3) Earned surplus or undivided profits, not including undivided profits of the taxable year.
- II. Add (if not shown on the books)
Additional value of tangible property—
 - (1) (a) Acquired for stock in excess of par value, allowed as paid-in surplus (Par. 2, Sect. 326).
(b) Acquired out of earnings but charged as current expense and not deducted on income tax return.
 - (2) Intangible property paid for (Pars. 4 and 5, Sect. 326).
 - (3) Proportion of inadmissible assets applicable to gain or profit subject to Excess Profits Tax derived from sale or other disposition of such assets (Sect. 325).
 - (4) Proportion of indebtedness, the interest on which is not deductible from income (Sect. 325, Par. 2, Sect. 234).
 - (5) All other property not covered by above, at cost, less depletion, depreciation or obsolescence.
- III. Deduct—
 - (1) Overvaluation or insufficient depreciation in tangible property.
 - (2) Overvaluation of intangible property or any excess of book value above 25% of par value of total stock or shares of the corporation outstanding at the beginning of the taxable year, or which shall be in excess of whichever valuation is required by paragraphs 4 and 5 of Section 326.
 - (3) Depletion, depreciation and obsolescence generally, necessary to arrive at true present value for Excess Profits Tax purposes, if not already cared for.
 - (4) Amount representing appreciation of a kind not subject to Income Tax, if any such has been taken up on the books.
 - (5) Stock returned to the corporation, less amounts realized on resale.

- (6) Adjustment, if any, due to reorganization (Sects. 330-331).

The result should be the adjusted capital and surplus account and should be the invested capital under the Act, subject to the following:

IV. Deduct—

- (1) Borrowed capital, if any included.
- (2) A percentage of invested capital equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the taxable year.

The result should be the invested capital to be used in computation of the War-Excess Profits Tax.

297 The invested capital for any period shall be the average invested capital for such period, but in the case of a corporation making a return for a fractional part of a year it shall (except for the purpose of paragraph 2 of Section 311-A) be the same fractional part of such average invested capital.

298 The average invested capital for the pre-war period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the average invested capital for such years.

Adjustment of Invested Capital:

299 In arriving at average invested capital for any period, where there have been changes during such period, correct result is obtained by adding or subtracting, as the case may be, an amount which will leave the average for the entire period, e. g.:

Take a corporation with a paid-in capital of.....	\$100,000
Surplus	50,000

Invested capital	<u>\$150,000</u>
------------------------	------------------

On December 31 this corporation declares a dividend payable to stockholders of record February 1, and say it pays a dividend of 6% out of surplus—\$6,000. In this case the entire \$150,000 would be available as capital for one month—

\$6,000 for 1 month = \$500 for 12 months

$(\$6,000 \times 1 \text{ month} \div 12 \text{ months})$

However, the \$6,000 is included in the \$150,000, and this amount is to be shown on the return as the capital with which the business of the year was begun. It is, therefore, necessary to deduct from this capital a sum which will leave a sum representing the average for the year. This result is obtained by using as a multiplier the number of months during the period covered by the return in which the \$6,000 was not effective as capital, which is 11 months.

We, therefore, have:

Invested capital at the beginning of the taxable year.....	\$150,000
Less \$6,000 $\times$ 11 months $\div$ 12 months = ...	5,500

Average invested capital for the year.....	\$144,500
--	-----------

This is the same thing as taking out the \$6,000,
leaving \$144,000

And then adding capital-equivalent of (the dividend) for the year	500
---	-----

	<u>\$144,500</u>
--	------------------

The same method is to be observed in the addition of new capital within the year. 300

It is interesting to note that the Revenue Bill as it came from Conference and was passed by both Houses of Congress contains a paragraph that dividends paid during the 301

"first 60 days of any taxable year shall be deemed to have been paid from earnings or profits accumulated during the preceding taxable years; but any distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits accumulated between the close of the preceding taxable year and the date of distribution, to the extent of such earnings or profits * * *."

Therefore, in all cases where dividends are paid within the first 60 days after the close of any taxable year, while this law remains effective, it will be necessary to adjust invested capital accordingly for the succeeding taxable year. 302

Illustration of an Adjustment of Capital Because of Inadmissible Assets

BALANCE SHEET OF A-B COMPANY FOR 1918

Assets		
Current		
Cash	\$20,000	
Accounts receivable	85,000	
Inventories	75,000	
		<u>\$180,000</u>
Investments		
Stocks and municipal bonds....	\$105,000	
Liberty & Corp. Bonds.....	45,000	
		<u>150,000</u>
Plant Assets		
Buildings, etc.		125,000
Good-will, patents, etc., acquired in 1912..		55,000
		<u>\$510,000</u>
Liabilities		
Accounts payable	\$60,000	
Mortgage	50,000	
		<u>110,000</u>
Excess of assets, or net worth =		<u>\$400,000</u>
Represented by:		
Capital stock	\$250,000	
Surplus at beginning of year...	50,000	
Profits of taxable year.....	100,000	
		<u>\$400,000</u>

ADJUSTMENT OF CAPITAL

Capital, from the Balance Sheet, appears to be..... \$300,000.00

Good-will, etc., purchased prior to March 3), 1917:

(a) Actual cash value at time of purchase.	\$55,000
(b) Par value of shares issued for.....	55,000
(c) 25% of \$250,000 (total shares outstanding March 3, 1917).....	62,500

As the amount at which good-will is included in capital is the lower of the three tests, let it stand.

Income from stock and municipal bonds is not subject to Excess Profits Tax. They are, therefore, inadmissible assets, and capital must be adjusted on that account as provided in Section 326 (c).

Total capital assets (not including profits of taxable year)	\$410,000	
Total inadmissible assets	105,000	
$\$105,000 \times \$300,000 =$		76,829.27
<u>\$410,000</u>		
Invested Capital for Tax =		<u>\$223,171.73</u>

**Form of Balance Sheet for Income Tax and
War Excess Profits Tax**

Assets

Current assets:

Cash	\$0	
Notes and accounts payable.....	0	
Inventories	0	\$0

Deferred charges to operations:

Prepaid insurance, etc.....	0
-----------------------------	---

Plant assets:

Real estate.....	0	
Machinery, fixtures, etc.....	0	0

Good will, patents, etc.....	0
------------------------------	---

Total.....	\$0
------------	-----

Liabilities

Notes payable.....	\$0	
Accounts payable.....	0	
Accrued wages.....	0	\$0

Bonded debt.....	0	
Mortgages	0	

Reserves	0	0
		<u>\$0</u>

**Excess of Assets
(Or Net Worth)**

Represented by:

Capital stock.....	\$0	
Surplus (or deficit)...	0	\$0
		<u>\$0</u>

As undivided profits of the taxable year must not be included in Invested Capital, such profits, as shown by the Profit and Loss Statement, must (if they are included) be deducted from total assets to ascertain the capital which is to be adjusted, or used without adjustment, as the case may be.

Only reserves which have not been used as a deduction against income in returns of income may be used as invested capital. If reserves or any part thereof have been deducted from income in ascertaining net income subject to taxation, the amount so used must be subtracted in the adjustment of capital for the purpose of the tax.

The foregoing form is in outline only and intended to give the idea of form rather than to be all inclusive as to items. With the suggestions we give, even those not familiar with the construction of Balance Sheets should be able to have a better understanding of what is required for the purpose of the tax.

The Profit and Loss Statement is simply a statement of gross income, deductions and exemptions. The Income Tax return will answer for this purpose.

When Tax Is To Be Assessed on Basis of Experience of Representative Corporations:

303 The provisions in the Revenue Act of 1918 similar to the situation provided for by Section 210 of the Revenue Act of 1917, are to be found in Sections 327 and 328 of the new law. Four classes of cases are provided for in which the tax on the net income of the taxpayer is to be the same proportion of his net income as the average tax of representative corporations engaged in a like or similar trade or business is of their average net income.

The cases are:

- 304** (1) Where the Commissioner is unable to determine invested capital as provided in Section 326;
- 305** (2) In the case of a foreign corporation;
- 306** (3) Where a mixed aggregate of tangible property has been paid in for stock or stock and bonds and the respective values of the several classes of property cannot be satisfactorily determined or the classes of property cannot be satisfactorily distinguished.
- 307** (4) Where, if the War Excess Profits Tax were computed as generally provided, the result would work upon the corporation an exceptional hardship as evidenced by gross disproportion between the tax so computed and the tax so computed on the net income of representative corporations.

A provision is made, however—

- (1) That if the tax computed as generally provided for, is high as compared with representative corporations merely because the corporation under consideration earns within the taxable year a high rate of profits upon a normal invested capital, then Section 328 will not apply, nor

- (2) If 50% or more of the gross income of such corporation for the taxable year (computed for Income Tax) consists of gains, profits, commissions, or other income, derived on a cost-plus basis from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

Provision is also made that if tax is to be assessed under section 328, if the tax computed as generally provided for is less than 50% of the net income, the tax assessed shall be 50% of the net income; but if the tax computed as generally provided is 50% or more of the net income, the installments shall in the first instance aggregate 50% of the net income. In any case, the actual ratio when determined shall be used in determining the correct amount of tax. If the aggregate amount of tax when actually determined shall exceed 50%, such excess shall on notice and demand by the Collector be paid together with interest at the rate of $\frac{1}{2}$ of 1% per month from the time the installment, or installments, was due. 308

In cases (1), (3), (4), (§ 304, 306, 307) the ratio is to be determined after deducting the specific exemption of \$3,000. In the case of a foreign corporation (2) (§305), the tax is to be computed without deducting the specific exemption either for the taxpayer or the representative corporations. 309

Reorganizations:

In case of reorganization, consolidation, or change of ownership, after January 1, 1911, of a trade or business now carried on by a corporation, the corporation shall be deemed to have been in existence prior to that date and the net income and invested capital of its predecessor for all or any part of the pre-war period prior to the organization of the corporation now carrying on such trade or business shall be deemed to have been the net income and invested capital of such corporation. If predecessor trade or business was carried on by an individual or partnership, the net income for the pre-war period shall be ascertained as nearly as may be upon the same basis and in the same manner as provided for corporations for Income Tax, including a reasonable deduction for salary or compensation to the partners or individuals for personal service rendered. 310

In the case of organization before July 1, 1919, of a trade or business in which capital is a material income-producing factor and which was previously owned by an individual or partnership, the net income of such trade or business from January 1, 1918, to the date of such organization may, at the option of the individual or partnership, be taxed as the net income of a corporation is taxed for both Income and Excess Profits Tax; in which event the net income and invested capital of such trade or business shall be computed as if such corporation had been in business on and after January 1, 1918, and the undivided profits or earnings of such trade 311

or business shall not be subject to the surtax imposed by Section 211, but amounts distributed on or after January 1, 1918, from the earnings of such trade or business shall be taxed to the recipients as dividends and all the provisions of Titles II and III of the Revenue Act of 1918 shall, so far as applicable, apply to such trade or business: Provided, that this provision shall not apply to any case the net income of which for the taxable year 1918 was less than 20% of the invested capital for such year: Provided further, that any taxpayer who takes advantage of this provision shall pay the Capital Stock Tax imposed by the Revenue Act of 1918 and the Revenue Act of 1916, as if such taxpayer had been a corporation on and after January 1, 1918, with a capital stock having no par value.

312 If any asset (of the trade or business) in existence both during the taxable year and any pre-war period is included in the invested capital for the taxable year, then it must be included in the invested capital for such pre-war period, and the computation of invested capital for such pre-war period shall be on the same basis employed in determining the invested capital for the taxable year. Any readjustments necessary to effect this result shall be made.

313 In the case of reorganization, consolidation, or change of ownership of property after March 3, 1917, if an interest or control in such trade or business or property of 50% or more, remains in the same persons, or any of them, then no asset received or transferred from the present owner shall, for the purpose of determining invested capital, be allowed a greater value than would have been allowed under this Title in computing the invested capital of such previous owner if such asset had not been transferred or received: Provided, that if such previous owner was not a corporation, then the value of any asset so transferred or received shall be taken at its cost of acquisition (at the date when acquired by such previous owner) with proper allowance for depreciation, impairment, betterment or development, but no addition to the original cost shall be made for any charge or expenditure deducted as expense or otherwise on or after March 1, 1913, in computing the net income of such previous owner for the purpose of taxation.

Section 335 Tax for Fiscal Year with Different Rates:

- 314** (a) That if a corporation (other than a Personal Service Corporation) makes return for a fiscal year beginning in 1917 and ending in 1918, the War Excess Profits Tax for the first taxable year shall be the sum of:
- (1) The same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917 which the portion of such period falling within the calendar year 1917 is to the entire period, and
 - (2) The same proportion of a tax for the entire period computed under this Title at rates specified in Section 301(a) which the portion of such period falling within the calendar year 1918 is to the entire period:

Any amount heretofore or hereafter paid on account of the tax imposed for such fiscal year by Title II of the Revenue Act of 1917 shall be credited toward the payment of the tax imposed for such fiscal year by this title, and if the amount so paid exceeds the amount of the tax imposed by this title, the excess shall be credited or refunded to the corporation in accordance with the provisions of Section 252. **315**

(b) If a corporation makes return for a fiscal year beginning in 1918 and ending in 1919, the tax for such fiscal year under this title shall be the sum of: **310**

(1) The same proportion of a tax for the entire period computed under subdivision (a) of Section 301 (War Excess Profits Tax for 1918) which the portion of such period falling within the calendar year 1918 is to the entire period, and

(2) The same proportion of a tax for the entire period computed under subdivision (b) of Section 301 (War Excess Profits Tax for 1919) which the portion of such period falling within the calendar year 1918 is to the entire period.

(c) If a partnership or Personal Service Corporation makes return for a fiscal year, beginning in 1917 and ending in 1918, it shall pay the same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917, which the portion of such period falling within the calendar year 1917 is of the entire period. **317**

Any tax paid by a partnership or Personal Service Corporation for any period beginning on or after January 1, 1918, shall be immediately refunded to the partnership or corporation as a tax erroneously or illegally collected. **318**

Tax Paid—When:

The War Excess Profits Tax shall be paid at the same times and places, in the same manner, and subject to the same conditions, as provided for Income Tax and all the provisions for Income Tax, including penalties, are made applicable in case of the War Excess Profits Tax. **319**

Maximum Tax on Profits from Sale of Mines, Oil and Gas Wells:

In the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the War Excess Profits Tax attributable to such sale shall not exceed 20% of the selling price of such property or interest. **320**

INSTRUCTIONS FOR USE OF TABLES 1 AND 2 FOR TAX ON INDIVIDUAL INCOME

EXAMPLE:

A married man without dependents has a net income, all subject to Normal and Surtax. \$51,000

From the column of total tax, with exemption of \$2,000, we find the tax for \$50,000 to be. \$11,030

The next higher Surtax rate is. 24%

Add Normal Tax rate. 12%

36%

The additional \$1,000 at 36% 360

Total tax. \$11,390

If the tax be calculated in detail, we have:

Total net income. \$51,000

Less exemption. 2,000

Amount of income subject to Normal Tax. \$49,000

\$ 4,000 at 6% \$240

\$45,000 at 12% 5400

Normal Tax. \$5,640

From Surtax table, we find tax on \$50,000 to be. . . . \$5,510

\$1,000 at 24% 240 5,750

Total tax. \$11,390

The Normal Tax and Surtax tables may be taken separately, or in any combination desired.

The method is the same for the 1919 table.

TABLE I
FOR NORMAL AND SURTAX—INDIVIDUALS—1918

Net Income	Total Tax Without Exemption	Total Tax with Exemption, \$1,000	Total Tax with Exemption, \$2,000	Total Normal Tax with Exemption, \$1,000	Total Normal Tax with Exemption, \$2,000	Total Surtax	Surtax of Each Rate	Surtax Rates	Tax % of Income Exemption, \$2,000	Tax % of Income with Exemption, \$1,000	Tax % of Income Without Exemption	Net Income
\$ 1,000	\$ 60	000	000	00	00					000	.06000	\$ 1,000
2,000	120	\$ 60	000	60	00					.03000	.06000	2,000
3,000	180	120	\$ 60	120	60				.02000	.04000	.06000	3,000
4,000	240	180	120	180	120				.03000	.04500	.06000	4,000
5,000	360	240	180	240	180				.03600	.05800	.07200	5,000
6,000	480	370	250	360	240			1%	.04166	.06166	.08133	6,000
8,000	770	550	530	500	720			2	.06625	.06850	.09633	8,000
10,000	1,070	950	830	840	720			3	.08300	.09500	.10700	10,000
12,000	1,300	1,270	1,150	1,080	960			4	.09583	.11580	.11580	12,000
14,000	1,730	1,610	1,490	1,320	1,200			5	.10643	.11500	.12357	14,000
16,000	2,090	1,970	1,850	1,560	1,440			6	.11562	.12312	.13062	16,000
18,000	2,470	2,350	2,230	1,800	1,680			7	.12388	.13055	.13722	18,000
20,000	2,870	2,750	2,630	2,040	1,920			8	.13150	.13250	.14350	20,000
22,000	3,290	3,170	3,050	2,280	2,160			9	.13864	.14409	.14954	22,000
24,000	3,730	3,610	3,490	2,520	2,400			10	.14541	.15042	.15541	24,000
26,000	4,190	4,070	3,950	2,760	2,640			11	.15192	.15654	.16115	26,000
28,000	4,670	4,550	4,430	3,000	2,880			12	.15821	.16678	.16678	28,000
30,000	5,170	5,050	4,930	3,120	3,000			13	.16433	.16833	.17233	30,000
32,000	5,600	5,570	5,450	3,240	3,120			14	.17031	.17406	.17780	32,000
34,000	6,230	6,110	5,990	3,480	3,360			15	.17617	.17971	.18323	34,000
36,000	6,790	6,670	6,550	3,660	3,540			16	.18193	.18528	.18861	36,000
38,000	7,370	7,250	7,130	4,200	4,080			17	.18763	.19087	.19394	38,000
40,000	7,970	7,850	7,730	4,440	4,320			18	.19325	.19625	.19975	40,000
42,000	8,590	8,470	8,350	4,680	4,560			19	.19881	.20167	.20452	42,000
44,000	9,320	9,110	8,990	4,920	4,800			20	.20432	.20704	.21181	44,000
46,000	9,890	9,770	9,650	5,160	5,040			21	.20978	.21239	.21500	46,000
48,000	10,570	10,450	10,330	5,400	5,280			22	.21521	.21771	.22021	48,000
50,000	11,270	11,150	11,030	5,640	5,520			23	.22070	.22300	.22540	50,000
52,000	11,990	11,870	11,750	5,880	5,760			24	.22606	.22825	.23058	52,000
54,000	12,730	12,610	12,490	6,120	6,000			25	.23129	.23352	.23574	54,000

(Table I continued on next page)

TABLE I—Continued
FOR NORMAL AND SURTAX—INDIVIDUALS—1918

Net Income	Total Tax Without Exemption	Total Tax with Exemption, \$1,000	Total Tax with Exemption, \$2,000	Total Normal Tax with Exemption, \$1,000	Total Normal Tax with Exemption, \$2,000	Total Surtax	Surtax Rates	Tax % of Income with Exemption, \$2,000	Tax % of Income with Exemption, \$1,000	Tax % of Income Without Exemption	Net Income
\$56,000	\$13,490	\$13,370	\$13,250	\$6,480	\$6,360	\$7,010	26%	.23661	.23875	.24089	\$56,000
58,000	14,270	14,150	14,030	6,720	6,600	7,550	27	.24189	.24395	.24604	58,000
60,000	15,070	14,950	14,830	6,960	6,840	8,110	28	.24716	.24916	.25217	60,000
62,000	15,890	15,770	15,650	7,200	7,080	8,690	29	.25242	.25435	.25629	62,000
64,000	16,730	16,610	16,490	7,440	7,320	9,290	30	.25765	.25953	.26139	64,000
66,000	17,590	17,470	17,350	7,680	7,560	9,910	31	.26288	.26469	.26652	66,000
68,000	18,470	18,350	18,230	7,920	7,800	10,550	32	.26809	.26985	.27161	68,000
70,000	19,370	19,250	19,103	8,160	8,040	11,210	33	.27328	.27500	.27671	70,000
72,000	20,290	20,170	20,050	8,400	8,280	11,890	34	.27847	.27916	.28180	72,000
74,000	21,230	21,110	20,990	8,640	8,520	12,590	35	.28229	.28513	.28690	74,000
76,000	22,190	22,070	21,950	8,880	8,760	13,310	36	.28881	.29039	.29066	76,000
78,000	23,170	23,050	22,930	9,120	9,000	14,050	37	.29396	.29551	.29705	78,000
80,000	24,170	24,050	23,930	9,360	9,240	14,810	38	.29912	.30063	.30275	80,000
82,000	25,190	25,070	24,950	9,600	9,480	15,590	39	.30427	.30573	.30719	82,000
84,000	26,230	26,110	25,990	9,840	9,720	16,390	40	.30940	.31083	.31190	84,000
86,000	27,290	27,170	27,050	10,080	9,960	17,210	41	.31493	.31593	.31732	86,000
88,000	28,370	28,250	28,130	10,320	10,200	18,050	42	.31966	.32102	.32229	88,000
90,000	29,470	29,350	29,230	10,560	10,440	18,910	43	.32477	.32611	.32744	90,000
92,000	30,590	30,470	30,350	10,800	10,680	19,790	44	.32989	.33119	.33250	92,000
94,000	31,730	31,610	31,490	11,040	10,920	20,690	45	.33500	.33627	.33755	94,000
96,000	32,790	32,770	32,650	11,280	11,160	21,610	46	.34092	.34135	.34156	96,000
98,000	33,070	33,950	33,830	11,520	11,400	22,550	47	.34520	.34632	.34765	98,000
100,000	35,270	35,150	35,030	11,760	11,640	23,510	48	.35030	.35160	.35270	100,000
102,000	36,270	36,150	36,030	12,000	11,880	24,490	49	.35530	.35660	.35770	102,000
104,000	37,270	37,150	37,030	12,240	12,120	25,490	50	.36030	.36160	.36270	104,000
106,000	38,270	38,150	38,030	12,480	12,360	26,490	51	.36530	.36660	.36770	106,000
108,000	39,270	39,150	39,030	12,720	12,600	27,490	52	.37030	.37160	.37270	108,000
110,000	40,270	40,150	40,030	12,960	12,840	28,490	53	.37530	.37660	.37770	110,000
112,000	41,270	41,150	41,030	13,200	13,080	29,490	54	.38030	.38160	.38270	112,000
114,000	42,270	42,150	42,030	13,440	13,320	30,490	55	.38530	.38660	.38770	114,000
116,000	43,270	43,150	43,030	13,680	13,560	31,490	56	.39030	.39160	.39270	116,000
118,000	44,270	44,150	44,030	13,920	13,800	32,490	57	.39530	.39660	.39770	118,000
120,000	45,270	45,150	45,030	14,160	14,040	33,490	58	.40030	.40160	.40270	120,000
122,000	46,270	46,150	46,030	14,400	14,280	34,490	59	.40530	.40660	.40770	122,000
124,000	47,270	47,150	47,030	14,640	14,520	35,490	60	.41030	.41160	.41270	124,000
126,000	48,270	48,150	48,030	14,880	14,760	36,490	61	.41530	.41660	.41770	126,000
128,000	49,270	49,150	49,030	15,120	15,000	37,490	62	.42030	.42160	.42270	128,000
130,000	50,270	50,150	50,030	15,360	15,240	38,490	63	.42530	.42660	.42770	130,000
132,000	51,270	51,150	51,030	15,600	15,480	39,490	64	.43030	.43160	.43270	132,000
134,000	52,270	52,150	52,030	15,840	15,720	40,490	65	.43530	.43660	.43770	134,000
136,000	53,270	53,150	53,030	16,080	15,960	41,490	66	.44030	.44160	.44270	136,000
138,000	54,270	54,150	54,030	16,320	16,200	42,490	67	.44530	.44660	.44770	138,000
140,000	55,270	55,150	55,030	16,560	16,440	43,490	68	.45030	.45160	.45270	140,000
142,000	56,270	56,150	56,030	16,800	16,680	44,490	69	.45530	.45660	.45770	142,000
144,000	57,270	57,150	57,030	17,040	16,920	45,490	70	.46030	.46160	.46270	144,000
146,000	58,270	58,150	58,030	17,280	17,160	46,490	71	.46530	.46660	.46770	146,000
148,000	59,270	59,150	59,030	17,520	17,400	47,490	72	.47030	.47160	.47270	148,000
150,000	60,270	60,150	60,030	17,760	17,640	48,490	73	.47530	.47660	.47770	150,000
152,000	61,270	61,150	61,030	18,000	17,880	49,490	74	.48030	.48160	.48270	152,000
154,000	62,270	62,150	62,030	18,240	18,120	50,490	75	.48530	.48660	.48770	154,000
156,000	63,270	63,150	63,030	18,480	18,360	51,490	76	.49030	.49160	.49270	156,000
158,000	64,270	64,150	64,030	18,720	18,600	52,490	77	.49530	.49660	.49770	158,000
160,000	65,270	65,150	65,030	18,960	18,840	53,490	78	.50030	.50160	.50270	160,000
162,000	66,270	66,150	66,030	19,200	19,080	54,490	79	.50530	.50660	.50770	162,000
164,000	67,270	67,150	67,030	19,440	19,320	55,490	80	.51030	.51160	.51270	164,000
166,000	68,270	68,150	68,030	19,680	19,560	56,490	81	.51530	.51660	.51770	166,000
168,000	69,270	69,150	69,030	19,920	19,800	57,490	82	.52030	.52160	.52270	168,000
170,000	70,270	70,150	70,030	20,160	20,040	58,490	83	.52530	.52660	.52770	170,000
172,000	71,270	71,150	71,030	20,400	20,280	59,490	84	.53030	.53160	.53270	172,000
174,000	72,270	72,150	72,030	20,640	20,520	60,490	85	.53530	.53660	.53770	174,000
176,000	73,270	73,150	73,030	20,880	20,760	61,490	86	.54030	.54160	.54270	176,000
178,000	74,270	74,150	74,030	21,120	21,000	62,490	87	.54530	.54660	.54770	178,000
180,000	75,270	75,150	75,030	21,360	21,240	63,490	88	.55030	.55160	.55270	180,000
182,000	76,270	76,150	76,030	21,600	21,480	64,490	89	.55530	.55660	.55770	182,000
184,000	77,270	77,150	77,030	21,840	21,720	65,490	90	.56030	.56160	.56270	184,000
186,000	78,270	78,150	78,030	22,080	21,960	66,490	91	.56530	.56660	.56770	186,000
188,000	79,270	79,150	79,030	22,320	22,200	67,490	92	.57030	.57160	.57270	188,000
190,000	80,270	80,150	80,030	22,560	22,440	68,490	93	.57530	.57660	.57770	190,000
192,000	81,270	81,150	81,030	22,800	22,680	69,490	94	.58030	.58160	.58270	192,000
194,000	82,270	82,150	82,030	23,040	22,920	70,490	95	.58530	.58660	.58770	194,000
196,000	83,270	83,150	83,030	23,280	23,160	71,490	96	.59030	.59160	.59270	196,000
198,000	84,270	84,150	84,030	23,520	23,400	72,490	97	.59530	.59660	.59770	198,000
200,000	85,270	85,150	85,030	23,760	23,640	73,490	98	.60030	.60160	.60270	200,000
202,000	86,270	86,150	86,030	24,000	23,880	74,490	99	.60530	.60660	.60770	202,000
204,000	87,270	87,150	87,030	24,240	24,120	75,490	100	.61030	.61160	.61270	204,000
206,000	88,270	88,150	88,030	24,480	24,360	76,490	101	.61530	.61660	.61770	206,000
208,000	89,270	89,150	89,030	24,720	24,600	77,490	102	.62030	.62160	.62270	208,000
210,000	90,270	90,150	90,030	24,960	24,840	78,490	103	.62530	.62660	.62770	210,000
212,000	91,270	91,150	91,030	25,200	25,080	79,490	104	.63030	.63160	.63270	212,000
214,000	92,270	92,150	92,030	25,440	25,320	80,490	105	.63530	.63660	.63770	214,000
216,000	93,270	93,150	93,030	25,680	25,560	81,490	106	.64030	.64160	.64270	216,000
218,000	94,270	94,150	94,030	25,920	25,800	82,490	107	.64530	.64660	.64770	218,000
220,000	95,270	95,150	95,030	26,160	26,040	83,490	108	.65030	.65160	.65270	220,000
222,000	96,270	96,150	96,030	26,400	26,280	84,490	109	.65530	.65660	.65770	222,000
224,000	97,270	97,150	97,030	26,640	26,520	85,490	110	.66030	.66160	.66270	224,000
226,000	98,270	98,150	98,030	26,880	26,760	86,490	111	.66530	.66660	.66770	226,000
228,000	99,270	99,150	99,030	27,120	27,000	87,490	112	.67030	.67160	.67270	228,000
230,000	100,270	100,150	100,030	27,360	27,240	88,490	113	.67530	.67660	.67770	230,000
232,000	101,270	101,150	101,030	27,600	27,480	89,490	114	.68030	.68160	.68270	232,000
234,000	102,270	102,150	102,030	27,840	27,720	90,490	115	.68530	.68660	.68770	234,000
236,000	103,270	103,150	103,030	28,080	27,960	91,490	116	.69030	.69160	.69270	236,000
238,000											

TABLE I—Continued
FOR NORMAL AND SURTAX—INDIVIDUALS—1918

Net Income	Total Tax Without Exemp- tion	Total Tax with Exemp- tion, \$1,000	Total Tax with Exemp- tion, \$2,000	Total Normal Tax Without Exemption	Total Normal Tax with Exemption, \$1,000	Total Normal Tax with Exemption, \$2,000	Total Surtax	Surtax of Each Rate	Surtax Rates	Tax % of Income with Exemption, \$1,000	Tax % of Income Without Exemp- tion	Net Income
\$7,500	\$ 700	\$ 580	\$ 460	\$ 660	\$ 540	\$ 420	\$ 40			.27733	.09333	\$ 7,500
12,500	1,475	1,355	1,235	1,260	1,140	1,020	215			.10840	.11800	12,500
15,000	1,910	1,790	1,670	1,560	1,440	1,320	350			.11933	.12733	15,000
25,000	3,960	3,840	3,720	2,760	2,640	2,520	1,200			.14880	.15840	25,000
35,000	6,510	6,390	6,270	3,960	3,840	3,720	2,550			.17914	.18600	35,000
45,000	9,560	9,440	9,320	5,160	5,040	4,920	4,400			.20978	.21244	45,000
55,000	13,110	12,990	12,870	6,360	6,240	6,120	6,750			.23618	.23836	55,000
65,000	17,160	17,040	16,920	7,560	7,440	7,320	9,600			.26215	.26400	65,000
75,000	21,710	21,590	21,470	8,760	8,640	8,520	12,950			.28787	.28947	75,000
85,000	26,760	26,640	26,520	9,960	9,840	9,720	16,800			.31341	.31482	85,000
95,000	32,310	32,190	32,070	11,160	11,040	10,920	21,150			.33884	.34010	95,000
5,000,000	3,783,270	3,783,150	3,783,030	599,760	599,640	599,520	3,183,510			.75663	.75665	5,000,000

TABLE II
INDIVIDUAL TAX FOR 1919 AND THEREAFTER
 Normal 4% and 8%—Surtax graduated rates

Net Income	Total Tax without Exem- ption	Total Tax with Personal Exem- ption of \$1,000	Total Tax with Personal Exem- ption of \$2,000	Total Normal Tax without Exemption	Total Normal Tax with Exemption of \$1,000	Total Normal Tax with Exemption of \$2,000	Total Surtax	Surtax at Each Rate	Surtax Rates	Tax per Cent of Income with Exemption, \$2,000	Tax per Cent of Income with Exemption, \$1,000	Tax per Cent of Income with Exem- ption	Net Income
\$1,000	\$ 40	\$ 0	\$ 0	\$ 40	\$ 0	\$ 0						.0400	\$ 1,000
2,000	80	0	0	80	40	0				.0133	.02000	.04000	2,000
3,000	120	80	40	120	80	40				.02000	.02666	.04000	3,000
4,000	160	120	80	160	120	80				.02000	.03000	.04000	4,000
5,000	240	160	120	240	160	120				.02800	.03200	.04800	5,000
6,000	330	250	170	320	240	160	10	10	1%	.02833	.04167	.05500	6,000
8,000	530	450	370	480	400	320	50	40	2	.05625	.05625	.06625	8,000
10,000	750	670	590	640	560	480	110	60	3	.05900	.06700	.07500	10,000
12,000	990	910	830	800	720	640	190	80	4	.06917	.07583	.08250	12,000
14,000	1,250	1,170	1,090	960	880	800	290	100	5	.07786	.08357	.08929	14,000
16,000	1,530	1,450	1,370	1,120	1,040	960	410	120	6	.08563	.09063	.09563	16,000
18,000	1,830	1,750	1,670	1,280	1,200	1,120	550	140	7	.09278	.09722	.10167	18,000
20,000	2,150	2,070	1,990	1,440	1,360	1,280	710	160	8	.09950	.10350	.10750	20,000
22,000	2,490	2,410	2,330	1,600	1,520	1,440	890	180	9	.10591	.10955	.11318	22,000
24,000	2,850	2,770	2,690	1,760	1,680	1,600	1,090	200	10	.11208	.11542	.11875	24,000
26,000	3,230	3,150	3,070	1,920	1,840	1,760	1,310	220	11	.11808	.12115	.12423	26,000
28,000	3,630	3,550	3,470	2,080	2,000	1,920	1,550	240	12	.12393	.12679	.12964	28,000
30,000	4,050	3,970	3,890	2,240	2,160	2,080	1,810	260	13	.12967	.13233	.13500	30,000
32,000	4,490	4,410	4,330	2,400	2,320	2,240	2,090	280	14	.13531	.13781	.14031	32,000
34,000	4,950	4,870	4,790	2,560	2,480	2,400	2,390	300	15	.14088	.14324	.14559	34,000
36,000	5,430	5,350	5,270	2,720	2,640	2,560	2,710	320	16	.14639	.14861	.15083	36,000
38,000	5,930	5,850	5,770	2,880	2,800	2,720	3,050	340	17	.15184	.15395	.15605	38,000
40,000	6,450	6,370	6,290	3,040	2,960	2,880	3,410	360	18	.15725	.15925	.16125	40,000
42,000	6,990	6,910	6,830	3,200	3,120	3,040	3,790	380	19	.16262	.16452	.16643	42,000
44,000	7,550	7,470	7,390	3,360	3,280	3,200	4,190	400	20	.16795	.16977	.17159	44,000
46,000	8,130	8,050	7,970	3,520	3,440	3,360	4,610	420	21	.17326	.17500	.17674	46,000
48,000	8,730	8,650	8,570	3,680	3,600	3,520	5,050	440	22	.17854	.18021	.18187	48,000
50,000	9,350	9,270	9,190	3,840	3,760	3,680	5,510	460	23	.18380	.18540	.18700	50,000
52,000	9,990	9,910	9,830	4,000	3,920	3,840	5,990	480	24	.18904	.19058	.19212	52,000
54,000	10,650	10,570	10,490	4,160	4,080	4,000	6,490	500	25	.19426	.19574	.19722	54,000

(Table II continued on next page)

TABLE II—Continued
INDIVIDUAL TAX FOR 1919 AND THEREAFTER
Normal 4% and 8%—Surtax graduated rates

Net Income	Total Tax without Exem- ption	Total Tax with Personal Exem- ption of \$1,000	Total Tax with Personal Exem- ption of \$2,000	Total Normal Tax without Exemption	Total Normal Tax with Exemption of \$1,000	Total Normal Tax with Exemption of \$2,000	Total Surtax at Each Rate	Surtax Rates	Tax per Cent of Income with Exemption, \$2,000	Tax per Cent of Income with Exemption, \$1,000	Tax per Cent of Income without Exem- ption	Net Income
\$56,000	\$11,330	\$11,250	\$11,170	\$4,320	\$4,240	\$4,160	\$7,010	26	.19946	.20089	.20232	\$56,000
58,000	12,030	11,950	11,870	4,480	4,400	4,320	7,550	27	.20466	.20604	.20741	58,000
60,000	12,750	12,670	12,590	4,640	4,560	4,480	8,110	28	.20983	.21129	.21250	60,000
62,000	13,490	13,410	13,330	4,800	4,720	4,640	8,690	29	.21500	.21629	.21758	62,000
64,000	14,250	14,170	14,090	4,960	4,880	4,800	9,290	30	.22016	.22141	.22266	64,000
66,000	15,030	14,950	14,870	5,120	5,040	4,960	9,910	31	.22530	.22652	.22773	66,000
68,000	15,830	15,750	15,670	5,280	5,200	5,120	10,550	32	.23044	.23162	.23279	68,000
70,000	16,650	16,570	16,490	5,440	5,360	5,280	11,210	33	.23557	.23671	.23786	70,000
72,000	17,490	17,410	17,330	5,600	5,520	5,440	11,890	34	.24069	.24180	.24292	72,000
74,000	18,350	18,270	18,190	5,760	5,680	5,600	12,590	35	.24581	.24689	.24797	74,000
76,000	19,230	19,150	19,070	5,920	5,840	5,760	13,310	36	.25092	.25197	.25302	76,000
78,000	20,130	20,050	19,970	6,080	6,000	5,920	14,050	37	.25603	.25705	.25807	78,000
80,000	21,050	20,970	20,890	6,240	6,160	6,080	14,810	38	.26112	.26212	.26312	80,000
82,000	21,990	21,910	21,830	6,400	6,320	6,240	15,590	39	.26622	.26719	.26817	82,000
84,000	22,950	22,870	22,790	6,560	6,480	6,400	16,390	40	.27131	.27226	.27321	84,000
86,000	23,930	23,850	23,770	6,720	6,640	6,560	17,210	41	.27640	.27733	.27826	86,000
88,000	24,930	24,850	24,770	6,880	6,800	6,720	18,050	42	.28149	.28239	.28329	88,000
90,000	25,950	25,870	25,790	7,040	6,960	6,880	18,910	43	.28655	.28744	.28833	90,000
92,000	26,990	26,910	26,830	7,200	7,120	7,040	19,790	44	.29163	.29250	.29337	92,000
94,000	28,050	27,970	27,890	7,360	7,280	7,200	20,690	45	.29670	.29755	.29840	94,000
96,000	29,130	29,050	28,970	7,520	7,440	7,360	21,610	46	.30177	.30260	.30344	96,000
98,000	30,230	30,150	30,070	7,680	7,600	7,520	22,550	47	.30684	.30765	.30847	98,000
100,000	31,350	31,270	31,190	7,840	7,760	7,680	23,510	48	.31190	.31270	.31350	100,000
150,000	61,350	61,270	61,190	11,840	11,760	11,680	49,510	52	.40793	.40907	.40984	150,000
200,000	93,350	93,270	93,190	15,840	15,760	15,680	77,510	56	.46595	.46635	.46675	200,000
300,000	161,350	161,270	161,190	23,840	23,760	23,680	137,510	60	.53730	.53757	.53783	300,000
500,000	303,350	303,270	303,190	39,840	39,760	39,680	263,510	63	.60638	.60654	.60670	500,000
1,000,000	663,350	663,270	663,190	79,840	79,760	79,680	583,510	64	.66319	.66327	.66335	1,000,000

(Table II continued on next page)

TABLE II—Continued
 INDIVIDUAL TAX FOR 1919 AND THEREAFTER
 Normal 4% and 8%—Surtax graduated rates

Net Income	Total Tax without Exem- ption	Total Tax with Personal Exem- ption of \$1,000	Total Tax with Personal Exem- ption of \$2,000	Total Normal Tax without Exemption	Total Normal Tax with Exemption of \$1,000	Total Normal Tax with Exemption of \$2,000	Total Surtax	Surtax at Each Rate	Surtax Rates	Tax per Cent of Income with Exemption, \$2,000	Tax per Cent of Income with Exemption, \$1,000	Tax per Cent of Income without Exem- ption	Net Income
\$ 7,500	\$ 480	\$ 400	\$ 320	\$ 440	\$ 360	\$ 280	\$ 40			.04267	.05333	.06400	\$ 7,500
12,500	1,055	975	895	840	760	680	215			.07160	.07800	.08440	12,500
15,000	1,390	1,310	1,230	1,040	960	880	350			.08200	.08733	.09267	15,000
25,000	3,030	2,950	2,870	1,840	1,760	1,680	1,190			.11480	.11800	.12120	25,000
35,000	5,190	5,110	5,030	2,640	2,560	2,480	2,550			.14371	.14600	.14829	35,000
45,000	7,840	7,760	7,680	3,440	3,360	3,280	4,400			.17067	.17244	.17422	45,000
55,000	10,990	10,910	10,830	4,240	4,160	4,080	6,750			.19691	.19836	.19982	55,000
65,000	13,640	13,560	13,480	5,040	4,960	4,880	9,600			.22277	.22400	.22523	65,000
75,000	18,790	18,710	18,630	5,840	5,760	5,680	12,950			.24840	.24928	.25053	75,000
85,000	23,440	23,360	23,280	6,640	6,560	6,480	16,800			.27388	.27482	.27576	85,000
95,000	28,590	28,510	28,430	7,440	7,360	7,280	21,150			.29926	.30010	.30094	95,000
\$,000,000	3,319,840	3,319,760	3,319,680	399,840	399,760	399,680	2,920,000			.66394	.66395	.66397	\$,000,000

TABLE III

CALCULATION OF TAX WHERE RATES FOR DIFFERENT
CALENDAR YEARS APPLY

(a) In the case of a partnership, under Sec. 218 (b) and Sec. 206 of the statute, both the normal and surtax will be involved in the personal returns of the partners—

- (1) The normal tax at the rates for the years involved.
- (2) The surtax in accordance with the method prescribed below.

(b) Stock Dividends, received in 1918 or before 30 days after the passage of the Revenue Act of 1918, are required to be allocated to the years in which was accumulated the earnings out of which the dividend was paid—if any year other than the taxable year is involved. All earnings of the taxable year 1918 being disposed of and all or any part of earnings back to March 1, 1913, being capitalized by means of the Stock Dividend, we have recourse to the following method for purpose of the surtax.

SURTAXES FOR 1913, 1914, AND 1915

	Rates
\$20,000 to \$50,000.....	1%
50,000 to 75,000.....	2
75,000 to 100,000.....	3
100,000 to 250,000.....	4
250,000 to 500,000.....	5
Above \$500,000, 6 per cent.	

SURTAXES FOR 1916

\$20,000 to \$40,000.....	1%	200,000 to 250,000.....	7%
40,000 to 60,000.....	2	250,000 to 300,000.....	8
60,000 to 80,000.....	3	300,000 to 500,000.....	9
80,000 to 100,000.....	4	500,000 to 1,000,000.....	10
100,000 to 150,000.....	5	1,000,000 to 1,500,000.....	11
150,000 to 200,000.....	6	1,500,000 to 2,000,000.....	12
Above \$2,000,000, 13 per cent.			

SURTAX FOR 1917

\$5,000 to \$7,500.....	1%	100,000 to 150,000.....	27
7,500 to 10,000.....	2	150,000 to 200,000.....	31
10,000 to 12,500.....	3	200,000 to 250,000.....	37
12,500 to 15,000.....	4	250,000 to 300,000.....	42
15,000 to 20,000.....	5	300,000 to 500,000.....	46
20,000 to 40,000.....	8	500,000 to 750,000.....	50
40,000 to 60,000.....	12	750,000 to 1,000,000.....	55
60,000 to 80,000.....	17	1,000,000 to 1,500,000.....	61
80,000 to 100,000.....	22	1,500,000 to 2,000,000.....	62
Over \$2,000,000, 63 per cent.			

(Table III continued on page 82)

See Table I for 1918 Surtaxes. See Table II for Surtax 1919 and subsequent years

TABLE III—Continued

EXAMPLE:

A married man, with a net income of \$125,000.

Subject to normal and surtax at 1918 rates..... \$50,000

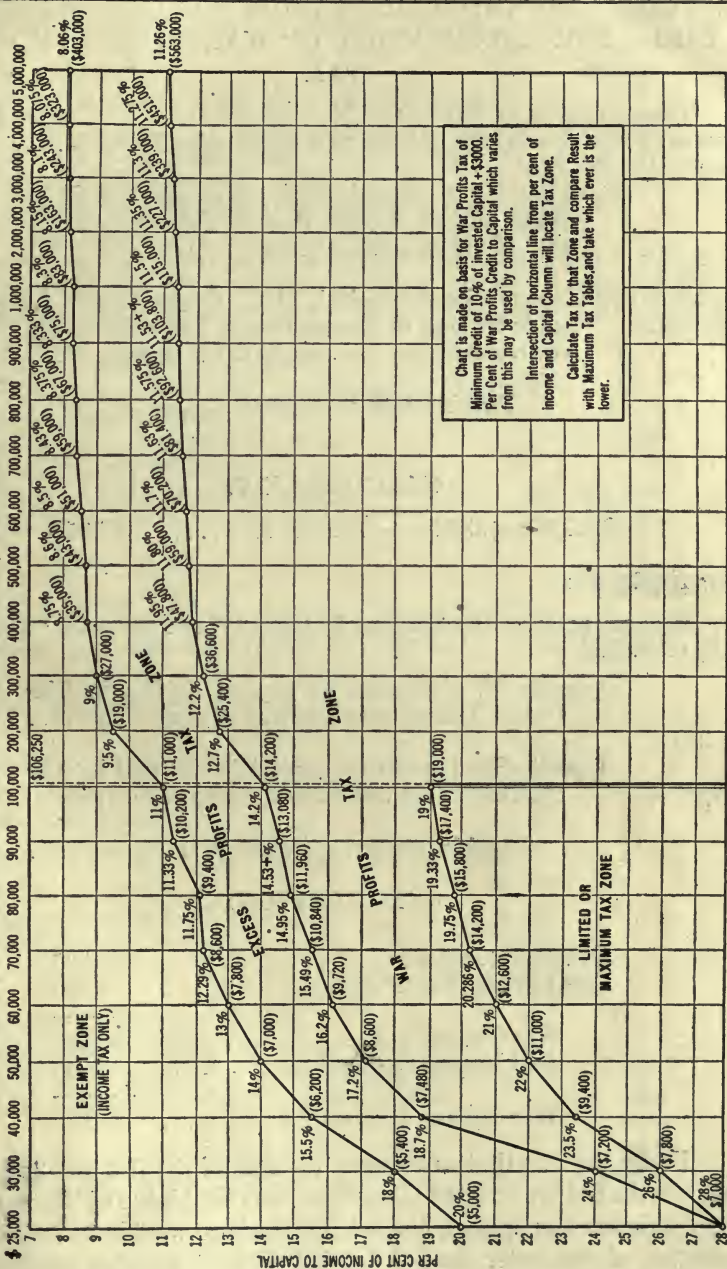
A stock dividend of..... 75,000

Total tax

The tax at 1918 rates on \$50,000 is \$11,030

Stock Dividend allocated as follows:	1913 to 1915 \$25,000	1916 \$20,000	1917 \$30,000	1918 \$.....	
				Net Income	
We now take the years in reverse order. We begin with the amount taxable at 1918 rates.....				\$50,000	
Comparing this with 1917 table, it falls in the 12% zone (\$40,000 to \$60,000). The difference between the beginning amount and end of this zone is (\$50,000 to \$60,000) \$10,000 @ 12% = \$1,200					
The balance (\$30,000—\$10,000) falls in the next higher 1917 zone..... 20,000 @ 17% = 3,400				30,000	4,600
Beginning point for 1916 tax.....				\$80,000	
We now take up the 1916 amount of \$20,000:					
By comparison with 1916 table, it falls in 4% zone (\$80,000 to \$100,000) \$20,000 @ 4% = \$800				20,000	800
Beginning point for 1913-1915 tax.....				\$100,000	
We now take up the 1913-1915 amount of \$25,000:					
By comparison with 1913-15 table, this falls in 4% zone (\$100,000 to \$250,000) \$25,000 @ 4% = \$1000				25,000	1,000
				\$125,000	\$17,430

GRAPH OF WAR-EXCESS PROFITS TAX, REVENUE ACT 1918



1918 TAX

INSTRUCTIONS AND ILLUSTRATION FOR USE OF DECIMAL TABLE FOR CALCULATION OF WAR-EXCESS PROFITS TAX

Take a capital of \$100,000. Net income of..... \$25,000
 Excess Profits Credit: 8% of Capital = \$8,000 plus \$3,000 = ... 11,000
Excess Profits Tax:

1st and 2nd brackets	{	% of income to capital, 25%. Opposite this % in table find in Excess Profits Tax column the rate of tax on capital to be.....	.0685
		% of exemption to capital, 11%. Opposite 11% in table we find in Excess Profits Tax column the equivalent rate of exemption on capital.....	.009
		Taxable rate on capital.....	.0595

CALCULATION:

$$\$100,000 \times .0595 = \dots\dots\dots \$5,950$$

War Profits Tax:

10% of capital = \$10,000 plus \$3,000 = (War Profits Cr.) \$13,000 =
 13% of capital.

3rd bracket	{	Opposite % of income on capital (25%), in War Profits Tax column find rate of tax on capital..	.12
		Opposite % of credit on capital (13%) find in War Profits Tax column rate of exemption on capital	.024
		Taxable rate on capital for War Profits Tax.	.096

CALCULATION:

\$100,000 × .096 = ...	\$9,600
Less Excess Profits Tax	5,950
War Profits Tax	\$3,650
Add Excess Profits Tax	5,950
War-Excess Profits Tax	\$9,600

Under the rule that as between the sum of the (1st and 2nd brackets) and the 3rd bracket, the tax assessable is the higher of the two unless the maximum tax applies, the calculation here would stop with determination of tax under the 3rd bracket without carrying the operation further. The next thing is a comparison of the higher of these two taxes with the maximum tax.

THE MAXIMUM TAX:

\$ 3,000 to \$20,000 = \$17,000 @ 30% = ...	\$5,100
\$20,000 to \$25,000 = \$ 5,000 @ 80%	4,000

Maximum Tax

As the maximum tax is less than the War Excess

Profits Tax

the maximum tax is the amount of War Tax assessable.

Instead of calculating the maximum tax, a glance at Table V would show \$9,100 as the maximum tax for an income of \$25,000.

Still further simplifying the calculation of tax, an inspection of the chart of tax zones shows that an income of 25% on a capital of \$100,000 falls, for tax, in the maximum tax zone. It is, therefore, unnecessary to calculate any other tax.

PROOF OF THE FOREGOING:

Take a capital of \$100,000. Net income of \$25,000.

20% of capital = \$20,000

8% of capital = 8,000 + \$3,000 = ...

EXCESS PROFITS TAX

\$20,000 - \$11,000 = \$9,000 @ 30% = ...

5,000

\$5,950

WAR PROFITS TAX

Credit = 10% of capital = \$10,000 + \$3,000 = ...

Net Income Credit

\$25,000 - \$13,000 = \$12,000 @ 80% = ...

If average prewar income be

Average prewar capital be

New capital put in

THEN WAR PROFITS CREDIT WOULD BE:

Specific exemption

Average prewar income

Add 10% of new capital

\$18,500

This credit is 18.5% of capital.

Referring to decimal table:

The rate of tax on capital for an income of 25% is ..

The rate of exemption for 18.5% of capital is

Net rate of tax on capital

\$100,000 × .052 = ...

Proof:

\$25,000 - \$18,500 = \$6,500 @ 80% = ...

Table III for War Excess Profits Tax.

Table V for Maximum Tax.

TABLE IV
DECIMAL TABLE FOR CALCULATION OF EXCESS AND WAR PROFITS TAXES

Graded by Per Cent of Income on Capital

(a) By $\frac{1}{4}\%$ to 30% of income.
 (b) By $\frac{1}{8}\%$ to 50% of income.
 (c) By 1% to 100% of income.

Per Cent of Income on Capital	RATE OF TAX ON CAPITAL		Per Cent of Income on Capital	RATE OF TAX ON CAPITAL		Per Cent of Income on Capital	RATE OF TAX ON CAPITAL		RATE OF TAX ON CAPITAL	
	Excess Profits Tax	War Profits Tax		Excess Profits Tax	War Profits Tax		Excess Profits Tax	War Profits Tax	Excess Profits Tax	War Profits Tax
8.	.00000		19.25	.03375	.074	31.5	.1107	.172	.283	.384
8.25	.00075		19.5	.0345	.076	32.	.114	.176	.2895	.392
8.5	.0015		19.75	.03525	.078	32.5	.11725	.18	.296	.40
8.75	.00225		20.	.036	.08	33.	.1205	.184	.3025	.408
9.	.003		20.25	.037625	.082	33.5	.12375	.188	.309	.416
9.25	.00375		20.5	.03925	.084	34.	.127	.192	.3155	.424
9.5	.0045		20.75	.040875	.086	34.5	.13025	.196	.322	.432
9.75	.00525		21.	.0425	.088	35.	.1335	.20	.3285	.44
10.	.006	.00000	21.25	.044125	.09	35.5	.13675	.204	.335	.448
10.25	.00675	.002	21.5	.04575	.092	36.	.14	.208	.3415	.456
10.5	.0075	.004	21.75	.047375	.094	36.5	.14325	.212	.348	.464
10.75	.00825	.006	22.	.049	.096	37.	.1465	.216	.3545	.472
11.	.009	.008	22.25	.050625	.098	37.5	.14975	.22	.361	.48
11.25	.00975	.01	22.5	.05225	.10	38.	.153	.224	.3675	.488
11.5	.0105	.012	22.75	.053875	.102	38.5	.15625	.228	.374	.496
11.75	.01125	.014	23.	.0555	.104	39.	.1595	.232	.3805	.504
12.	.012	.016	23.25	.057125	.106	39.5	.16275	.236	.387	.512
12.25	.01275	.018	23.5	.05875	.108	40.	.166	.24	.3935	.52
12.5	.0135	.02	23.75	.060375	.11	40.5	.16925	.244	.40	.528
12.75	.01425	.022	24.	.062	.112	41.	.1725	.248	.4065	.536
13.	.015	.024	24.25	.063625	.114	41.5	.17575	.252	.413	.544
13.25	.01575	.026	24.5	.06525	.116	42.	.18225	.256	.4195	.552
13.5	.0165	.028	24.75	.066875	.118	42.5	.1855	.26	.426	.56
13.75	.01725	.03	25.	.0685	.12	43.	.18875	.264	.4325	.568
14.	.018	.032	25.25	.070125	.122	43.5	.192	.268	.439	.576

(Table IV continued on next page)

TABLE V
MAXIMUM TAX LIMIT FOR VARIOUS INCOMES

Income	Maximum Tax Limit	Income	Maximum Tax Limit	Income	Maximum Tax Limit
\$4,600	\$480	\$36,000	\$17,900	\$250,000	\$189,100
4,800	540	37,000	18,700	260,000	197,100
5,000	600	38,000	19,500	270,000	205,100
5,200	660	39,000	20,300	280,000	213,100
5,400	720	40,000	21,100	290,000	221,100
5,600	780	41,000	21,900	300,000	229,100
5,800	840	42,000	22,700	310,000	237,100
6,000	900	43,000	23,500	320,000	245,100
6,200	960	44,000	24,300	330,000	253,100
6,400	1,020	45,000	25,100	340,000	261,100
6,600	1,080	46,000	25,900	350,000	269,100
6,800	1,140	47,000	26,700	360,000	277,100
7,000	1,200	48,000	27,500	370,000	285,100
7,200	1,260	49,000	28,300	380,000	293,100
7,500	1,350	50,000	29,100	390,000	301,100
8,000	1,500	52,500	31,100	400,000	309,100
8,500	1,650	55,000	33,100	425,000	329,100
9,000	1,800	59,000	36,300	450,000	349,100
9,500	1,950	60,000	37,100	475,000	369,100
10,000	2,100	63,000	39,500	500,000	389,100
11,000	2,400	65,000	41,100	525,000	409,100
12,000	2,700	67,000	42,700	550,000	429,100
13,000	3,000	68,000	43,500	575,000	449,100
14,000	3,300	70,000	45,100	600,000	469,100
15,000	3,600	71,000	45,900	625,000	489,100
16,000	3,900	75,000	49,100	650,000	509,100
17,000	4,200	80,000	53,100	675,000	529,100
18,000	4,500	85,000	57,100	700,000	549,100
19,000	4,800	90,000	61,100	750,000	589,100
20,000	5,100	95,000	65,100	800,000	629,100
21,000	5,900	100,000	69,100	850,000	669,100
22,000	6,700	110,000	85,100	900,000	709,100
23,000	7,500	120,000	93,100	950,000	749,100
24,000	8,300	130,000	101,100	1,000,000	789,100
25,000	9,100	140,000	109,100	1,100,000	869,100
26,000	9,900	150,000	117,100	1,200,000	949,100
27,000	10,700	160,000	125,100	1,300,000	1,029,100
28,000	11,500	170,000	133,100	1,400,000	1,109,100
29,000	12,300	180,000	141,100	1,500,000	1,189,100
30,000	13,100	190,000	149,100	1,750,000	1,589,100
31,000	13,900	200,000	157,100	2,000,000	1,989,100
32,000	14,700	210,000	165,100	2,500,000	2,589,100
33,000	15,500	220,000	173,100	3,000,000	2,989,100
34,000	16,300	230,000	181,100	3,500,000	3,389,100
35,000	17,100	240,000		4,000,000	

UNIVERSITY OF CALIFORNIA LIBRARY,
BERKELEY

THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW

Books not returned on time are subject to a fine of
50c per volume after the third day overdue, increasing
to \$1.00 per volume after the sixth day. Books not in
demand may be renewed if application is made before
expiration of loan period.

OCT 22 1922



TLOOK

-five
City
in-
ry.
t-

an
priv
disse
Th
where

50m-7,27

City Company
Main National City Bank Building
Uptown Office Forty-third Street and Fifth Avenue

392674

H. 12379
N 2

UNIVERSITY OF CALIFORNIA LIBRARY

